

TITLE 7

PUBLIC PEACE AND SAFETY

Chapter 1 MISCELLANEOUS OFFENSES AGAINST PUBLIC PEACE AND PROPERTY

7-1-1. Vagrancy.

It shall be unlawful for any person:

- (a) Not having lawful business pertaining thereto, to be in or about any public school grounds or building, during school hours; or
- (b) To lodge or sleep in any barn, shop or other building not designed or normally used for sleeping or lodging, without the permission of the owner or tenant thereof; or
- (c) To be in or about any occupied or unoccupied dwelling, shop or other building in the City between the hours of sunset and sunrise, without being the owner or tenant thereof, and not having the permission of the owner or tenant thereof, or not having lawful business relating thereto; or
- (d) To solicit alms from any person, firm or corporation, or to solicit money, tribute or support by means of force, threat or coercion.

7-1-2. Disorderly Houses.

It shall be unlawful for any person to do, commit, or permit to be done or committed any of the things or acts in this section hereinafter enumerated:

- (a) To keep, maintain or permit to be kept or maintained upon or in any property owned, occupied or leased by or to such persons, any bawdy or other disorderly house, house of ill-fame or assignation house; or
- (b) To keep, maintain or permit to be kept or maintained upon or in any building, place or structure any facilities that are resorted to or used in whole or in part by one or more persons for lewdness or prostitution; or
- (c) To be the owner or lessee of any building or tenement, the whole or any part of

which is used for any of the purposes mentioned in this section; or

- (d) To have control of any building or tenement as owner, agent, guardian or lessee after written notice from the Chief of Police that such building or tenement is being used for the purposes mentioned in this section as being illegal; or
- (e) To let or lease any building or tenement, knowing that the lessee intends using the same, or any part thereof, for the purposes mentioned in this section as being illegal; or
- (f) To encourage or allow to continue, after notice thereof, as the owner or tenant, any disturbance or breach of the peace upon any private lot, land, or within any dwelling or structure, which disturbance or breach of the peace disturbs any citizen.

7-1-3. Incendiary Missiles.

It shall be unlawful for any person to make, carry, possess or use any type of molotov cocktail, gasoline or petroleum base fire bomb, or other incendiary missile or explosive device within the limits of this City. The term "molotov cocktail" shall mean any bottle or other container containing gasoline or any other volatile substance with a fuse-type wick inserted therein.

7-1-4. Missiles and Weapons.

It shall be unlawful for any person to use or to carry or possess with the intent to use, any rock, bottle, club, brick, piece of metal, or any other object used as a weapon, unlawfully against the person or property of another within the limits of this City.

7-1-5. Throwing Missiles.

It shall be unlawful for any person, within the limits of this City, to wilfully or carelessly throw any stone, stick, snowball or other missile whereby any person shall be hit, or any property injured or destroyed, or in such manner as to render travel upon the public streets and places of the City dangerous, or in such a manner as to frighten or annoy any other person.

7-1-6. Animals and Fowl Disturbing the Neighborhood.

It shall be unlawful for any person wilfully to possess, maintain or keep, within the limits of this City, any animals or fowl which emit loud or offensive noises or which disturb the peace and quiet of another person.

7-1-7. Obscene or Profane Language.

It shall be unlawful for any person within the limits of this City to use obscene or profane language in a place or under circumstances which could reasonably cause or provoke a reasonable person to commit a breach of the peace and good order of the City or would cause such a reasonable person to act in an overtly hostile manner.

7-1-8. Fireworks Prohibited.

It shall be unlawful for any person within the Sandy City limits to:

- (a) Discharge, explode or set off any rocket, squib, firecracker, Roman candle or any other fireworks or combustible or explosive material whatsoever without first obtaining permission of the City Council to do so.
- (b) Sell or to offer for sale or to have in his possession or custody any of the fireworks herein described.
- (c) The provisions of this section shall not apply to those activities authorized by Chapter 6 of

Title 8 of these ordinances.

7-1-9. Barbed Wire Fences Prohibited.

- (a) It shall be unlawful for any person, partnership, corporation or other entity within the limits of Sandy City to erect or cause to be erected or to maintain any barbed wire fence along or adjacent to any street or as a division fence between adjoining lots or parcels of land. This prohibition shall apply whether the fence is erected or maintained and any such barbed wire fence is hereby declared to be a nuisance and subject to the procedures for abatement thereof.
- (b) Such fences shall not be prohibited in areas of this City which have been specifically zoned to allow for the maintenance of animals, such as horses, cattle, sheep and goats, or where such animals exist as per a nonconforming use.
- (c) The above prohibition shall not be apply to the use of barbed wire or other security wire which is placed upon fences in commercial, industrial, business or civic property for the purpose of maintaining security and preventing property loss and vandalism.

7-1-10. Leaving Children in Vehicles.

(a) It shall be unlawful for any person within the limits of this City, having in his care, control or under his guidance, any minor child under seven (7) years of age, to at any time lock or confine or suffer to be locked or confined, or left unattended, even though not locked or confined, in any automobile, bus or other vehicle or trailer upon a public street, alley or other public property where parking or drive-in facilities are offered to the public, if the child's health or welfare is put at substantial risk or if the child is injured as a result of being left in the vehicle.. A child is unattended within the meaning of this section if the oldest person with the vehicle is a person under the age of twelve (12) years.

- (b) Violation of this section is a class "B" misdemeanor.

7-1-11. Expectorating in Public Place and Prohibition Against Littering.

- (a) It shall be unlawful for any person in Sandy City to expectorate or throw or put any cigar stump, quid of tobacco, peeling or rind from any fruit or vegetable, upon the floor, wall or ceiling of any public conveyance or upon the floor, wall or ceiling of any building used for public purposes or gatherings or upon any sidewalk, road, highway or public property abutting upon any such sidewalk, road or highway.

(b) It shall be unlawful for any person to throw, discard, drop or deposit or to permit to be dropped, thrown, deposited or discarded any ashes, offal, dirt, garbage, or other matter which could or would cause injury or obstruction to any street, sidewalk, avenue, alley, park or public ground within Sandy City.

7-1-11A. Public Urination.

A person is guilty of public urination if the person urinates or defecates:

- (a) in a public place, other than a public rest room; and**
- (b) under circumstances which the person should know will likely cause affront or alarm to another.**
- (c) Public urination is a class C misdemeanor.**

7-1-12. Pollution of Canal, Stream or Watercourse.

It shall be unlawful for any person to dump, allow to enter or place, any dirt, garbage, leaves or refuse of any kind into any stream, canal, waterway or watercourse within the limits of Sandy City.

7-1-13. Removal of Snow from Sidewalks.

It shall be unlawful for any owner, occupant, lessee or person in control of any property abutting on any paved sidewalk within Sandy City to fail to remove or cause to be removed from such paved sidewalk all hail, snow or sleet falling thereon within twenty-four (24) hours after such hail, snow or sleet has ceased falling. Any violation of the provisions of this section shall be deemed in infraction.

7-1-14. Opening and Closing Time for City Parks.

- (a) Except for unusual and unforeseen emergencies, City parks shall be open to the public every day of the year during designated hours. Parks shall open each day at 6:00 a.m. Parks shall be closed at 10:00 p.m. each day at parks without lighted playing fields and at 10:30 p.m. at parks with lighted playing fields. Closing hours for parks shall be posted in each park for public information.

- (b) Any person found in or upon any park during these hours when such park is closed shall be guilty of an infraction.
- (c) A person or group of persons may receive written permission from the Director of the Department of Parks and Recreation to be in a park during hours when it is posted as being closed. Such written permission must be presented to police officers or other City officials or employees upon request. The presentation of such written permission shall void, for the time period granted by the written permission, the penalty provisions of this section but shall not void any other penalties for violations of other ordinances or laws.
- (d) All activities conducted within the parks shall comply with the provisions of the Revised Ordinances of Sandy City, including specifically Title 7, Chapter 2 concerning Noise Control.

Chapter 2 NOISE CONTROL

7-2-1. Declaration of Policy.

WHEREAS, the making of creation of excessive, unnecessary or unusually loud noises within the limits of Sandy City is a condition which has existed for some time and the extent and magnitude of such noises is increasing; and

WHEREAS, the making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unreasonable in their time, place and use affect and are a detriment to public health, comfort, convenience, safety and welfare of the residents of Sandy City;

THEREFORE, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of public policy, and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of Sandy City.

7-2-2. Contracts.

Sandy City shall not enter into any written agreement, purchase order or instrument requiring a commitment for the expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof unless such agreement, purchase order or instrument contains provisions requiring full compliance with this ordinance.

7-2-3. Definitions and Standards.

All terminology used in this ordinance and not defined below shall be in conformance with applicable American National Standards Institute Publications, including but not limited to SI. 1-1960, R 171, or those from its successor publications or bodies. For the purposes of this ordinance, certain words and phrases used herein are defined as follows:

- (a) A-Weighted Sound Pressure Level: The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.
- (b) Ambient Sound Pressure Level: The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded 90 percent of the time based on a measurement period which shall not be less than 10 minutes.
- (c) Continuous Sound: Any sound which exists essentially without interruption, for a period of 10 minutes or more.

- (d) Cyclically Varying Noise. Any sound which varies in sound level such that the same level is obtained repetitively at reasonably uniform intervals of time.
- (e) Decibel: Logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted dB.
- (f) Device: Any mechanism which is intended to produce or which actually produces noise when operated or handled.
- (g) Dynamic Braking Device (Commonly referred to as Jacobs Brake): A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
- (h) Emergency Work: Work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.
- (i) Emergency Vehicle: A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.
- (j) Impulsive Noises: A noise containing excursions usually less than one second, or sound pressure level using the fast meter characteristics.
- (k) Motor Vehicles: Any vehicle which is self- propelled by mechanical power, including but not limited to passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, snowmobile and racing vehicles.
- (l) Muffler: An apparatus consisting of a series of chambers of baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- (m) Noise Disturbance: Any sound which annoys or disturbs any reasonable person with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace and safety of other persons.
- (n) Noise: Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.
- (o) Percentile Sound Pressure Level:
 - (1) Tenth Percentile Noise Level 11 the A- weighted sound pressure level that is exceeded 10 percent of the time in any measurement period (such as the level that is exceeded for 1 minute in a 10 minute period) and is denoted L10.
 - (2) Ninetieth Percentile Noise Level - the A- weighted sound pressure level that is exceeded 90 percent of the time in any measurement period (such as the level that is exceeded for 9 minutes in a 10 minute period) and is denoted L90.
- (p) Person: Any human being, firm, association, organization, partnership, business,

- trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.
- (q) Plainly Audible Noise: Any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.
 - (r) Property Boundary: An imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by any other person.
 - (s) Public Right-of-Way: Any street, avenue, boulevard, highway, or alley or similar place which is owned or controlled by a public governmental entity.
 - (t) Pure Tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purpose of measurement, a pure tone shall exist of the one-third octave band sound pressure level in the band when the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for frequencies of 500 Hz and above, by 8 dB for frequencies between 160 and 400 Hz, and by 15 dB for frequencies less than or equal to 125Hz.
 - (u) Repetitive Impulse Noise: Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than 10 dB(A).
 - (v) Sound: A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium and which propagates at finite speed to distant points.
 - (w) Sound Level Meter: An instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighting networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of type 2 or better as specified in American National Standards Institute Publication S1. 4-1971 or its successor publication.
 - (x) Sound Pressure: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.
 - (y) Sound Pressure Level: Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure, which shall be 20 micropascals, denoted LP or SPL.
 - (z) Stationary Noise Source: Any device, fixed or movable, which is located or used

on property other than a public right-of-way.

- (aa) Steady Noise: A sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than 6 dB(A) when measured with the "slow" meter characteristic of a sound level meter.
- (bb) Use District: Those land use districts as established by the Sandy City Zoning Ordinances or, in those cases in which the actual use differs from the use as established by the Sandy City Zoning Ordinances, the land use to which the land in question is actually subjected.

7-2-4. Noises Prohibited.

- (a) General Prohibitions.: In addition to the specific prohibitions outlined in subpart (b) below and Section 5 and 11 of this chapter, it shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the limits of Sandy City. It shall not be a defense to a violation of the subpart that the noise disturbance when created was in a district that would allow for such disturbance if the noise created affects persons outside the use district from which the noise originates, as a noise disturbance as defined herein.
- (b) Specific Prohibitions: The following acts are declared to be in violation of this chapter.

- (1) Horns and Signaling Devices. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the City except as a danger warning signal as provided in the vehicle codes of Sandy City and the State of Utah, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.
- (2) Radios, Television Sets, Tape Players, Compact Disc Players, Musical Instruments, and Similar Devices.

Using, operating, or permitting, the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound:

- (A) between the hours of 10 p.m. and 7 a.m. in a way that is plainly audible at the property boundary of the source; or
 - (B) on public property or on a public right-of-way at any time so as to be plainly audible 50 feet (15.25 meters) from the device. Permits to exceed the limits of Section 7-2-4 (b)(2)(B) may be issued for special events on public property by the Director upon approval from the agency operating the public property.
- (3) Public Loudspeakers. Using or operating a loudspeaker sound amplifying

equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, transmitting music to any persons or assemblages of persons, in such a manner as to violate Section 5 or cause a noise disturbance unless a permit as provided by Section 8 is first obtained.

- (4) Hawkers and Peddlers. Selling anything by outcry within any area of the City zoned primarily for residential uses in such a manner as to violate Section 5 or cause a noise disturbance. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
- (5) Loading Operation. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to violate Section 5 or cause a noise disturbance.
- (6) Construction Work. Operating, or causing to be used or operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto:
 - (A) In residential or commercial land use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day;
 - (B) In any land use district where such operation exceeds the sound level limits for an industrial land use as set forth in Section 5.
- (7) Domestic Power Equipment. Operating or permitting to be operated any power equipment rated 5 horsepower or less used for home or building repair or grounds maintenance, including but not limited to power saw, sander, lawn mower, garden equipment or snow removal equipment, in residential or snow removal equipment, in residential or commercial zones:
 - (A) Outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day;
 - (B) Any such power equipment which emits a sound pressure level in excess of 74 dB(A) measured at a distance of 50 feet (15 meters).
- (8) Commercial Power Equipment. Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, rated more than 5 horsepower, including but not limited to chain saws, pavement breakers, log chippers, powered hand tools:
 - (A) In residential or commercial land use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day;

- (B) In any land use district if such equipment emits a sound pressure level in excess of 82 dB(A) measured at a distance of 50 feet (15 meters).
- (9) Enclosed Places of Public Entertainment. Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of 100 dB(A) as read with slow response on a sound level meter, unless a conspicuous and legible sign at least 225 square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS MAY CAUSE HEARING IMPAIRMENT." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate Section 5 of this chapter.
- (10) Fireworks or Explosives. The use of explosives or fireworks or the firing of guns or other explosive devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit as provided by Section 8. This provision shall not be construed to permit conduct prohibited or authorized by other statutes, ordinances or regulations governing such activity.
- (11) Racing Events. Permitting any motor vehicle racing event at any place in such a manner as to violate Section 5 or cause a noise disturbance without first obtaining a permit as provided by Section 8.
- (12) Powered Model Mechanical Devices. The flying of a model aircraft powered by internal combustion engines, whether tethered or not, the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of 9:00 p.m. and 7:00 a.m. the following day or in such a manner as to violate Section 5 or cause a noise disturbance.
- (13) Dynamic Braking Devices (Commonly referred to as Jacobs Brake): Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger.
- (14) Defect in Vehicle. Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair or manner of operation, violates Section 5 or causes a noise disturbance.
- (15) Refuse Compacting Vehicles. The operating or causing or permitting to be operated or used any refuse compacting vehicle which creates a sound pressure level in excess of 74 dB(A) at 50 feet (15 meters) from the vehicle.
- (16) Garbage Collection. The collection of garbage, waste or refuse between the hours of 9:00 p.m. and 7:00 a.m. the following day.
- (A) In any area zoned residential, or within 300 feet of an area zoned residential.

- (B) In any land use district so as to cause a noise disturbance.
- (17) Standing Motor Vehicles. The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate Section 5 or cause a noise disturbance for a consecutive period longer than 15 minutes during which such vehicle is stationary in a residential zone.
- (18) Quiet Zones. Creating noise in excess of the residential standard as defined in Section 5 within the vicinity of any school, hospital, institution of learning, court, or other designated area where exceptional quiet is necessary, while the same is in use, provided conspicuous signs are displayed in the streets indicating that the same is a quiet zone.
- (19) Bells and Alarm. Sounding, operating or permitting to sound or operate an electronically amplified noise from any burglar alarm, bell, chime or clock, including but not limited to bells, chimes or clocks in schools, houses or religious worship or governmental buildings, which fails to meet the standards set forth in Section 5 for more than 5 minutes in any hour.
- (20) Fixed Sirens, Whistles and Horns.
- The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except a sound signal of imminent danger, in such a manner as to violate Section 5 or cause a noise disturbance.
- (21) Recreational Vehicles and Snowmobiles.
- (A) Operating a recreational vehicle or snowmobile in a manner which violates Section 5 or causes a noise disturbance.
- (B) Selling or operating any new (after model year 1977) recreational vehicle or snowmobile in Sandy City unless such vehicle produces no more than a maximum sound level of 82 dB(A) at 50 feet (15 meters).

7-2-5. Use Districts Noise Levels.

- (a) Maximum Permissible Sound Levels. It shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level (L90) of any measurement period (which shall not be less than 10 minutes unless otherwise provided in this ordinance) which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

| | | |
|--------------|------------------------|------------------------|
| Use District | <u>9 p.m. - 7 a.m.</u> | <u>7 a.m. - 9 p.m.</u> |
|--------------|------------------------|------------------------|

| | | |
|---------------------------|----------|----------|
| Residential | 50 dB(A) | 55 dB(A) |
| Commercial - Agricultural | 55 dB(A) | 60 dB(A) |
| Industrial | 75 dB(A) | 80 dB(A) |

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

(b) Correction for Duration of Sound.

- (1) It shall be a violation of this chapter for any person to operate, or permit to be operated, any stationary source of sound within any land use district which creates a tenth percentile sound pressure level (L10) greater than 15 dB(A) above the ambient sound pressure level (L90) of any measurement period. Such period shall not be less than 10 minutes.

(c) Correction for Character of Sound.

- (1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound the limits set forth in subsection (a) above shall be reduced by 5 dB(A).
- (2) Notwithstanding compliance with part (1) of this subsection, it shall be a violation of this ordinance for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

7-2-6. Sound Level Measurement.

Sound level measurements shall be made with a sound level meter using the "A" weighting scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the Salt Lake City- County Health Department.

7-2-7. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- (a) Noise of safety signals, warning devices and emergency pressure relief valves.
- (b) Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (c) Noise resulting from emergency work.
- (d) Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday.

- (e) Noise resulting from the starting of school busses at the Jordan School District Maintenance Facility. Includes the idling of engines during the safety inspection prior to early morning departure for normal school operations.
- (f) Any noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by Sandy City or the Director of the Salt Lake City-County Health Department in accordance with Section 8 herein.

7-2-8. Permit.

Applications for a permit for relief from the noise restrictions in these ordinances on the basis of undue hardship may be made to Sandy City through the Mayor's Cabinet or the Salt Lake City-County Health Department. Any permit granted by Sandy City or the Director of the Salt Lake City-County Health Department or their authorized representative shall contain all conditions upon which said permit has been granted, including but not limited to the effective dates, any time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted upon good and sufficient showing:

- (a) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or
- (b) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; and
- (c) That no reasonable alternative is available to the applicant.

The City or Board of Health may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.

7-2-9. Motor Vehicle Noise.

- (a) No person shall drive or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least 25 feet (7.5 meters) from the near side of the nearest lane(s) being monitored and at a height of at least 4 feet (1.2 meters) above the immediate surrounding surface.

Sound Pressure Level, dB(A)

| | |
|----------------|-------------|
| Speed Limit | Speed Limit |
| 40 MPH or less | Over 40 MPH |

Motor vehicles with a manufacturers gross vehicle weight rating (GVWR) or gross combination weight rating

(GCWR) of 10,000 pounds or more, or any

combination of vehicles towed by such motor vehicle. 90 94

Any other motor vehicle or any combination of vehicles towed by any motor vehicle. 80 84

- (b) This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this title relating to motor vehicle mufflers for noise control.
- (c) No person shall operate or cause to be operated any motor vehicle unless the exhaust of such vehicle is:
 - (1) Free from defects which affect sound reduction;
 - (2) Equipped with a muffler or other noise dissipative device; and
 - (3) Not equipped with any cut-out, by-pass or similar device.
- (d) These provisions shall be enforced consistent with law set forth in Title 41 of the Utah Code Annotated, as amended.

7-2-10. Enforcement Responsibility.

The Salt Lake City-County Health Department shall have primary responsibility with appropriate law enforcement agencies as it relates to vehicular sources.

7-2-11. Violation.

Any person violating any provision of this chapter shall be guilty of an infraction. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

7-2-12. Additional Remedies.

Violations of Sections 4 through 9 of this chapter are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction by a court of competent jurisdiction.

7-2-13. Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect independent from the invalid provision or application, and to this end the provisions of this chapter are hereby declared to be severable.

Chapter 3

REGULATIONS RELATING TO MINORS

7-3-1. Providing Cigars, Cigarettes, or Tobacco to Minors - Penalties.

- (a) Any person who knowingly, intentionally, recklessly, or with criminal negligence provides any cigar, cigarette, or tobacco in any form, to any person under 19 years of age is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.
- (b) For purposes of this section "provides":
 - (1) includes selling, giving, furnishing, sending, or causing to be sent; and
 - (2) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without reason to know of the package's contents.

7-3-2. Purchase or Possession of Tobacco.

- (a) It shall be unlawful for any person under nineteen years of age to purchase, obtain or otherwise possess any cigar, cigarette or tobacco in any form.

7-3-3. Sale of Tobacco Products.

As used in this part:

- (a) Definitions:
 - (1) "Place of business" means any and all places such as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, poolrooms, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, streetcars, buses, interurban and railway passenger coaches and waiting rooms.
 - (2) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.
 - (3) "Cigarette" means any product which contains nicotine, is intended to be burned under ordinary conditions of use and consists of:
 - (A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - (B) any roll of tobacco wrapped in any substance containing tobacco which because of its appearance, the type of tobacco used in the filler, or

its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(A). "Cigarette" does not include a standard 60 carton case.

(4) "Cigarette tobacco" means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements pertaining to cigarettes shall also apply to cigarette tobacco.

(5) "Retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption or who operates a facility where vending machines or self-service displays are permitted under this section.

(6) "Self-service display" means any display of cigarettes or smokeless tobacco products to which the public has access without the intervention of a retail employee.

(7) "Smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity. "Smokeless tobacco" does not include multi-container packs of smokeless tobacco.

(b) Except as provided in Subsection (c), a retailer may sell cigarettes and smokeless tobacco only in a direct face-to-face exchange between the retailer and the consumer. Examples of methods that are not permitted include vending machines and self-service displays.

This section does not prohibit the use or display of locked cabinets containing cigarettes or smokeless tobacco if the locked cabinets are only accessible to the retailer or its employees.

(c) The following sales are permitted as exceptions to Subsection (b):

(1) mail-order sales, excluding mail-order redemption of coupons and distribution of free samples through the mail; and

(2) vending machines, including vending machines that sell packaged, single cigarettes, and self-service displays that are located in a separate and defined area within a facility where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.

(3) A parent or legal guardian who accompanies a person younger than 19 years of age into an area described in Subsection (c)(2) and permits the persons younger than 19 years of age to purchase or otherwise take a cigar, cigarette, or tobacco in any form in guilty of furnishing tobacco as provided for in Section 76-10-104, Utah Code Ann., and is subject to the penalties provided for in that

section.

- (4) Violation of Subsection (c)(2) or (c)(3) is:
 - (i) a class C misdemeanor on the first offense;
 - (ii) a class B misdemeanor on the second offense; and
 - (iii) a class A misdemeanor on the third and all subsequent offenses.

7-3-4. Sale of Beer, Alcoholic Beverage or Liquor.

- (a) It shall be unlawful for any person, business establishment, corporation or other entity to sell, give, furnish or otherwise provide any alcoholic beverage, liquor or beer to any person under twenty-one years of age.
- (b) The terms "alcoholic beverage," "beer" and "liquor" shall have as their definitions those same definitions for such similar terms as are found in the Utah Liquor Control Act, which Act is a part of the laws of the State of Utah.
- (c) Any violation of this section shall be deemed a class B misdemeanor.

7-3-5. Unlawful Purchase, Possession, Consumption By Minors - Measurable Amounts in Body.

- (a) Unless specifically authorized by this title, it is unlawful for any minor to:
 - (1) purchase any alcoholic beverage or product;
 - (2) attempt to purchase any alcoholic beverage or product;
 - (3) solicit another person to purchase any alcoholic beverage or product;
 - (4) possess any alcoholic beverage or product;
 - (5) consume any alcoholic beverage or product; or
 - (6) have measurable blood, breath, or urine alcohol concentration in the minor's body.
- (b) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor for:
 - (1) any minor to misrepresent the minor's age; or
 - (2) any other person to misrepresent the age of a minor.
- (c) It is unlawful for a minor to possess or consume any alcoholic beverage while riding in a limousine or chartered bus.
- (d) This section does not apply to a minor's consumption of an alcoholic beverage or product in accordance with this title:

- (1) for medicinal purposes if the alcoholic beverage is furnished by:
 - (A) The parent or guardian of the minor; or
 - (B) The minor's physician or dentist; or
- (2) as part of a church's or religious organization's religious services.

7-3-6. Curfew.

- (a) The following definitions shall apply for purposes of this section:

- (1) "Care and custody" means the legal authority of a parent or guardian to supervise or otherwise be responsible for a minor, or the express authority given from such parent or legal guardian of a minor to a responsible adult to supervise or otherwise be responsible for the activities and care of the minor.
- (2) "Emergency errand" means any errand or travel undertaken to directly and immediately seek to prevent or reduce the consequences of an illness or injury, criminal or potentially criminal activity, or fire or other accident and shall include the seeking of aid and assistance from medical or emergency response personnel or the purchase of medications.
- (3) "Minor" means any unmarried, unemancipated person who is not a member of the armed forces of the United States and who is under the age of 16 years for the purposes of Section 3 hereof or who is under the age of 18 years for the purpose of Section 4 hereof.
- (4) "Public places" means any place open to the public, whether publicly or privately owned, including but not limited to, parking lots and the interiors and exteriors of commercial establishments such as restaurants, stores or places of entertainment.

- (b) Sixteen-Year-Old-Curfew(1).

It shall be unlawful for any minor under the age of sixteen (16) years to remain or loiter upon any of the sidewalks, streets, alleys or public places in Sandy City, between the hours of 11:00 p.m. and 5:00 a.m. the following morning.

- (c) Eighteen-Year-Old-Curfew.

It shall be unlawful for any minor under the age of eighteen (18) years to remain or loiter upon any of the sidewalks, streets, alleys or public places in Sandy City, between the hours of 1:00 a.m. and 5:00 a.m.

- (d) Parental Liability.

It shall be unlawful for any parent, guardian or other person having care and custody of any minor to knowingly allow or permit the minor to violate the provisions of this chapter.

(e) Business Liability.

No person owning or operating a business as defined by this code of ordinances shall knowingly permit any minor to remain on the premises of such business in violation of the provisions of this ordinance. This section, however, shall not apply to any minor who is lawfully employed on the premises.

(f) Exceptions.

The provisions of this chapter shall not apply to any circumstance in which the minor is:

- (1) Accompanied by a parent, guardian, or other responsible adult having care and custody of such minor;
- (2) Engaged in a legitimate trade, employment or occupation which requires the minor's presence in or on the sidewalks, streets, alleys or public places while working at or traveling to or from such employment;
- (3) Engaged on an emergency errand directed by the minor's parent, guardian or other responsible having care and custody;
- (4) In a motor vehicle engaged in normal interstate travel beginning in, traveling through, or ending in Sandy, Utah;
- (5) Attending or engaged in traveling between the minor's home or place of residence and a place where any religious, municipal, social, entertainment, sporting, political, library, or school function is occurring; or
- (6) Within the immediate vicinity of the minor's place of residence.

(g) Enforcement.

- (1) Any minor who is in violation of the provisions of this chapter is subject to arrest and citation.
- (2) Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.
- (3) It shall be unlawful for any parent, guardian, or other person charged with the care and custody of a minor who is in violation of this chapter to knowingly refuse to appear and take custody of said minor within a reasonable time after being ordered to do so by a peace officer.

7-3-7. Regulation of Movies for Minors.

(a) For the purposes of this section, the following definitions shall apply:

- (1) "Young person" means any unmarried natural person who has not attained his or her eighteenth birthday.

- (2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discerning turgid state.
- (3) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or if such person be a female, her breasts.
- (4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (5) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in under garments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
- (6) "Harmful to young persons" means that quality of any description of representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:
 - (A) Predominantly appeals to the prurient, shameful or morbid interest of young persons, and
 - (B) Is patently offensive to prevailing standards in the adult community of Sandy City as a whole with respect to what is suitable material for young persons, and
 - (C) Is utterly without redeeming social importance for young people.
- (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:
 - (A) The character and content of any material described herein which is reasonably susceptible for examination by the defendant, and
 - (B) The age of the young person, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such young persons.
- (8) "Advertisement" means any commercial or promotional material initiated or disseminated by an exhibitor, his agents or employees, designed to bring a film to public attention, or to increase the sale of tickets to exhibition of the same, whether by newspaper, billboard, motion picture, radio, or other media when such is originated or disseminated within the City of Sandy.

- (9) "Exhibitor" means any person, partnership, firm or corporation which exhibits a film in Sandy City.
 - (10) "Exhibit" means to project any film at any public motion picture theater or other public place within Sandy City at which tickets are sold for admission.
 - (11) "Film" means any motion picture film or series of films, whether full length or short subjects, not including news reels or films portraying actual current events or pictorial news of the day.
- (b) The following shall be deemed violations of the provisions of this section:
- (1) It shall be unlawful for any person unknowingly to exhibit for a monetary consideration to a young person or knowingly to sell to a young person an admission or pass or knowingly to admit a young person for a monetary consideration to premises in Sandy City wherein there is exhibited a motion picture, show or other presentation which in whole or in part, depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse and which is harmful to young persons, or to allow any young person as defined herein to enter or be in any movie picture house or theater in a position to observe the screen thereof at any time when there is exhibited in said theater, any movie picture film which has been advertised by the exhibitor as "for adults only".
 - (2) It shall be unlawful for any young person defined herein to view or wilfully be in a position to observe a theater screen at a time when there is on exhibit in said theater any movie picture film which has been advertised by the exhibitor as "for adults only".
 - (3) It shall be unlawful to exhibit any film advertised as "adult only" to young persons. When such film has been so advertised, notice shall be prominently displayed on the marquee and box office and no young person shall be admitted or allowed to view the same when said film is being shown on said premises.
 - (4) It shall be unlawful for any young person falsely to give his age as over 18 years old or older for the purpose of gaining admittance to any film advertised as being unsuitable or not recommended for young persons.
 - (5) To the extent that any prosecution or other proceeding under this ordinance involves a young person entering, purchasing, or otherwise receiving a ticket, or viewing a film advertised by the exhibitor as being not suitable for young persons, it shall be a valid defense that such young person was accompanied by his or her parent or legally appointed guardian throughout the viewing of such film.

7-3-8. Regulation of Magazines for Minors.

- (a) For the purpose of this section, the following definitions shall apply:
- (1) "Young person" means any unmarried natural person who has not attained his or her eighteenth birthday.
 - (2) "Magazine" for the purpose of this section shall mean any printed magazine, book, brochure, folder, or material of a similar nature, in and upon which are printed, or by other means reproduced, pictures, writing, printing, or characters of any nature.
 - (3) "Magazine seller" shall mean any person, firm, partnership, or corporation, or agent or employee thereof, selling magazines on a retail basis within the City limits of Sandy City.
 - (4) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks, with less than a full opaque covering, or the showing of the female breasts with less than a fully opaque covering or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
 - (5) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical conduct with a person's clothed or unclothed genitals, pubic area, buttocks, or if such person be a female, her breasts.
 - (6) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
 - (7) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in under garments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 - (8) "Harmful to young persons" means that quality of any description or representation, in whatever form of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:
 - (A) Predominantly appeals to the prurient, shameful, or morbid interests of young persons, and
 - (B) Is patently offensive to prevailing standards in the adult community as a whole without respect to what is suitable material for young persons, and
 - (C) Is utterly without redeeming social importance for young persons.
 - (9) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:
 - (A) The character and content of any material described herein which is

reasonably susceptible of examination by the defendant, and

- (B) The age of the young person, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such young person.

- (b) The following shall be deemed violations of the provisions of this section:

It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a young person:

- (1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation of image of a person or portion of the human body which depicts nudity, sexual conduct, or sado-masochistic abuse, and which is harmful to young persons, or
- (2) Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in paragraph (a) herein, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, and which, taken as a whole, is harmful to young persons, without the prior express permission of said young person's parent or legal guardian.
- (3) It shall be unlawful for any young person, as defined herein, to purchase, possess, handle, read, or inspect any item as enumerated in subsection (1) and (2) hereinabove described, without the express permission of said young person's parent or guardian.
- (4) It shall be unlawful for any young person to falsely give his age as 18 years or older, or to falsely represent prior consent of his parent or guardian for the purpose of purchasing or otherwise obtaining access to and possession of the items described and enumerated in paragraphs (1) and (2) above.

7-3-9. Contributing to the Delinquency of a Minor.

- (a) A person commits contributing to the delinquency of a minor if that person is:

- (1) 18 years of age or older and:

- (i) solicits, requests, commands, encourages, or intentionally aids or who acts with a minor in the violation of any federal, state, or local law, or municipal ordinance;

- (ii) tends to cause minors to become or remain delinquent; or

- (iii) aids, contributes to, or becomes responsible for the neglect, abuse, or delinquency of any minor.

- (2) 18 years or older, having a minor in his legal custody, or under his care, or in his employment, and willfully abuses or ill-treats, neglects, or abandons the minor in any manner likely to cause the minor unnecessary suffering or serious injury to his health or morals;
- (3) 18 years or older and:
 - (i) forcibly takes away a minor from, or wrongfully encourages him to leave, the legal or physical custody of any person, agency, or institution in which the minor lawfully resides or has been legally placed for the purpose of care, support, education, or adoption; or
 - (ii) knowingly detains or harbors a minor whom he has reasonable grounds to believe has escaped or fled from the custody of any agency or institution in which the minor lawfully resides or has run away from his parent or guardian or custodian;
- (4) 18 years of age or older and:
 - (i) provides a minor with an alcoholic beverage or a controlled substance; or
 - (ii) encourages or permits a minor to consume an alcoholic beverage or controlled substance; or
- (b) It is not necessary in order to obtain a conviction under this ordinance to establish that the minor had become delinquent or committed a delinquent act.
- (c) For purposes of this section "minor" means a person younger than 18 years of age.

Chapter 4 INCHOATE OFFENSES

7-4-1. Attempt - Elements of Offense.

- (a) For purposes of this part, a person is guilty of an attempt to commit a crime if he:
 - (1) engages in conduct constituting a substantial step toward commission of the crime; and
 - (2) (A) intends to commit the crime; or
(B) when causing a particular result in an element of the crime, he acts with an awareness that his conduct is reasonable certain to cause that result.
- (b) For purposes of this part, conduct constitutes a substantial step if it strongly corroborates the actor's mental state as defined in Subsection (a)(2).
- (c) A defense to the offense of attempt does not arise:
 - (a) because the offense attempted was actually committed; or
 - (b) due to factual or legal impossibility if the offense could have been committed if the attendant circumstances had been as the actor believed them to be.

7-4-2. Attempt - Classification of Offenses.

Criminal attempt to commit:

- (a) A class A misdemeanor is a class B misdemeanor;
- (b) A class B misdemeanor is a class C misdemeanor;
- (c) A class C misdemeanor is punishable by a penalty not exceeding one-half the penalty for a class C misdemeanor.
- (d) An infraction is an infraction and such attempt is punishable as an infraction.

7-4-3. Conspiracy - Elements of Offense.

For purposes of this part, a person is guilty of conspiracy when he, intending that conduct constituting a crime be performed, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy.

7-4-4. Conspiracy - Classification of Offenses.

Conspiracy to commit:

- (a) A class A misdemeanor is a class B misdemeanor;
- (b) A class B misdemeanor is a class C misdemeanor;
- (c) A class C misdemeanor is punishable by a penalty not exceeding one-half the penalty for a class C misdemeanor.
- (d) An infraction is an infraction and such attempt is punishable as an infraction.

7-4-5. Specific Attempt or Conspiracy Offense Prevails.

Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this chapter, the specific offense shall prevail over the provisions of this chapter.

7-4-6. Connection of Inchoate and Principal Offense Prohibited.

No person shall be convicted of both an inchoate and principal offense.

Chapter 5 OFFENSES AGAINST THE PERSON

7-5-1. Assault.

- (a) Assault is:
 - (1) An attempt, with unlawful force or violence, to do bodily injury to another; or
 - (2) A threat, accompanied by a show of immediate force or violence, to do bodily injury to another.
 - (3) An act committed with unlawful force or violence, that causes or creates a substantial risk of bodily injury to another.
- (b) Assault is a class B misdemeanor, except when it is committed in a fight or scuffle entered into by mutual consent and no serious bodily injury results, in which case it is a class C misdemeanor. In the case of serious bodily injury, the offense may be charged as a class A misdemeanor pursuant to State law.

7-5-2. Battery.

- (a) Battery is:
 - (1) A person intentionally or knowingly causing bodily injury to another; or
 - (2) A person recklessly causing serious bodily injury to another.
- (b) Battery is a class B misdemeanor, except when it is committed in a fight or scuffle entered into by mutual consent and no serious bodily injury results, in which case it is a class C misdemeanor.

7-5-3. Offensive Touching.

- (a) A person commits offensive touching if his contact with another is not legally consented to by the other or otherwise privileged.
- (b) Offensive touching is a class B misdemeanor.

7-5-4. Harassment.

- (a) A person is guilty of harassment if, with intent to frighten or harass another, he communicates in writing a threat to commit any violent felony.
- (b) Harassment is a class C misdemeanor.

7-5-5. Terroristic Threat.

- (a) A person commits terroristic threat if he threatens to commit any offense involving bodily injury, death, or substantial property damage, and:
 - (1) causes action of any nature by an official or volunteer agency organized to deal with emergencies; or
 - (2) places a person in fear of imminent serious bodily injury, substantial bodily injury, or death.
- (b) A violation of this section is a class B misdemeanor.
- (c) It is not a defense under this section that the person did not attempt to or was incapable of carrying out the threat.
- (d) A threat under this section may be express or implied.
- (e) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
- (f) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement is inappropriate.

7-5-6. Custodial Interference.

- (a) A person, whether a parent or other, is guilty of custodial interference if, without good cause he takes, entices, conceals, or detains a child under the age of sixteen from his parent, guardian, or other lawful custodian.
 - (1) Knowing that he has no legal right to do so; and
 - (2) With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.
- (b) A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause, he conceals or detains the child with intent to deprive the other person of his lawful visitation or custody rights.
- (c) A person is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains an incompetent or other person under the age of

sixteen who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has not legal right to do so.

- (d) Custodial interference is a class B misdemeanor.

7-5-7. Unlawful Detention.

- (a) A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
- (b) Unlawful detention is a class B misdemeanor.

7-5-8. Unlawful Sexual Activity with a Minor - Elements - Penalties - Evidence of Age Raised by Defendant.

- (a) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.
- (b) A person commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of 76-5-402, U.C.A., object rape, in violation of 76-5-402.2, U.C.A., forcible sodomy, in violation of Section 76-5-403, U.C.A., or aggravated sexual assault, in violation of 76-5-405, U.C.A., the actor:
 - (1) has sexual intercourse with the minor;
 - (2) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or
 - (3) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.
- (c) If the defendant is less than four years older than the minor, unlawful sexual activity with a minor is a class B misdemeanor.

7-5-9. Sodomy.

- (a) A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.

7-5-10. REPEALED.

7-5-11. Child Abuse.

- (1) As used in this section:
 - (a) "Child" means a human being who is 17 years of age or less.

- (b) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:
 - (i) a bruise or other contusion of the skin;
 - (ii) a minor laceration or abrasion;
 - (iii) failure to thrive or malnutrition; or
 - (iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in 76-5-109, U.C.A.
- (2) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:
 - (a) if done intentionally, knowingly, the offense is a class A misdemeanor;
 - (b) if done recklessly, the offense is a class B misdemeanor; or
 - (c) if done with criminal negligence, the offense is a class C misdemeanor.
- (3) Criminal actions under this section may be prosecuted in Sandy if the offense was committed or discovered in the City, or if the victim or defendant resides in the City.

7-5-12. Commission of Domestic Violence in the Presence of a Child.

- (a) As used in this section:
 - (1) "Cohabitant" has the same meaning as defined in Section 30-6-1, U.C.A.
 - (2) "Domestic violence" has the same meaning as in Section 77-36-1.
 - (3) "Child" means any human being who is 17 years of age or less.
 - (4) "In the presence of a child" means:
 - (A) in the physical presence of a child; or
 - (B) having knowledge that a child is present and may see or hear an act of domestic violence.
- (b) A person is guilty of an offense if the person, under circumstances not amounting to a violation of 76-5-109.1(2)(a) or (b), U.C.A., commits an act of domestic violence in the presence of a child.
- (c) A person who violates this section is guilty of a class B misdemeanor.
- (d) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence where the victim is the cohabitant. Either or both

charges may be filed by the prosecutor.

Chapter 6 OFFENSES AGAINST PROPERTY

7-6-1. Definitions.

For purposes of this chapter:

- (a) "Property" means any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure.
- (b) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is actually present or not.
- (c) "Property" is that of another, if anyone other than the actor has possessory or proprietary interest in any portion thereof.
- (d) "Value" means:
 - (1) The market value of the property, if totally destroyed, at the time and place of the offense, or where costs of replacement exceeds the market value; or
 - (2) Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.
 - (3) If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections (1) and (2) above, the property shall be deemed to have a value of less than \$300.

7-6-2. Arson.

- (a) A person is guilty of arson if, under circumstances not amounting to aggravated arson as defined by Utah Code Annotated, 1953, at section 76-6-103, by means of fire or explosives, he unlawfully and intentionally damages:
 - (1) Any property with intention of defrauding an insurer; or
 - (2) The property of another.
- (b) Arson is a class B misdemeanor if the damage caused is less than \$300.

7-6-3. Reckless Burning.

- (a) A person is guilty of reckless burning if he:
 - (1) Recklessly starts a fire or causes an explosion which endangers human life; or
 - (2) Having started a fire, whether reckless or not, and knowing that it is spreading

and will endanger the life or property of another, either fails to take reasonable measures to put it out or control the fire or fails to give a prompt fire alarm; or

- (3) Damages the property of another by reckless use of fire or causing an explosion.

(b) Reckless burning is:

- (1) A class B misdemeanor if the damage to property exceeds \$500 but is or exceeds \$300 but is less than \$1,000 in value; and
- (2) A class C misdemeanor if the damage to property is or exceeds \$150 but is less than \$300 in value.
- (3) Any other infraction under subsection (2) shall constitute an infraction.

7-6-4. Criminal Mischief and Damage to Mail Receptacle.

(a) A person commits criminal mischief if:

- (1) He intentionally and unlawfully tampers with the property of another and as a result:
 - (A) recklessly endangers human health or safety; or
 - (B) intentionally damages, defaces, or destroys the property of another; or
 - (C) recklessly or wilfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.
 - (D) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(b) A person commits the crime of damage to mail receptacle if the person knowingly damages the condition of a mail receptacle of another, including:

- (1) taking, concealing, damaging, or destroying a key; or
- (2) breaking open, tearing down, damaging or destroying a mail receptacle.
- (3) The definitions used in 76-6-1001, U.C.A. shall apply to this section.

(c) Criminal mischief and damage to mail receptacle are:

- (1) Class B misdemeanors if the actor's conduct causes or is intended to cause

pecuniary loss of less than \$300 in value.

- (2) In determining the degree of an offense committed under this subsection, the penalty levels in Subsection 76-6-106(3)(b) apply.
- (3) If the act committed amounts to an offense subject to a greater penalty, this subsection does not prohibit prosecution and sentencing for the more serious offense.

7-6-5. Manufacture or Possession of Instrument for Burglary, Theft, Vandalism, or Destruction of Property.

Any person who manufactures or possesses any instrument, tool, device, article, or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in commission of a burglary, theft, vandalism, or destruction of property, is guilty of a class B misdemeanor.

7-6-6. Criminal Trespass.

- (a) For purposes of this section, "enter" means intrusion of the entire body.
- (b) A person is guilty of criminal trespass if:
 - (1) He enters or remains unlawfully on property and;
 - (A) Intends to cause annoyance or injury to any person thereon or damage to any property thereon; or
 - (B) Intends to commit any crime, other than theft or a felony; or
 - (C) Is reckless as to whether his presence will cause fear for the safety of another.
 - (2) Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:
 - (A) Personal communication to the actor by the owner or someone with apparent authority to act for the owner; or
 - (B) Fencing or other enclosure obviously designed to exclude intruders; or
 - (C) Posting of signs reasonably likely to come to the attention of intruders.
- (c) A violation of subsection (b)(1) is a class C misdemeanor unless it was committed in a dwelling, in which event it is a class B misdemeanor. A violation of subsection (b)(2) is an infraction.
- (d) It is a defense to prosecution under this section:
 - (1) That the property was open to the public when the actor entered, or remained;

and

- (2) The actor's conduct did not substantially interfere with the owner's use of the property.

7-6-7. Tampering with Records.

- (a) Any person who, having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing or record, public or private, with intent to deceive or injure any person or to conceal any wrongdoing, is guilty of tampering with records.
- (b) Tampering with records is a class B misdemeanor.

7-6-8. Issuing a Bad Check - Presumption.

- (a) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check.
- (b) For purposes of this subsection, a person who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if he had no account with the drawee at the time of issue.
- (c) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, payment of which a check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if he fails to make good and actual payments to the payee in the amount of the refused check or draft within 14 days of his receiving actual notice of the check or draft's nonpayment.
- (d) If the check or series of checks is made or drawn in this City within a period not exceeding six months amounts to a sum that is less than \$300, such offense of issuing a bad check is a class B misdemeanor.

7-6-9. Fraudulent Use of Credit Card - "Credit Card" Defined.

- (a) A person is guilty of a class B misdemeanor if he uses a credit card for the purpose of obtaining property or services with the knowledge that:
 - (1) The card is stolen; or
 - (2) The card has been revoked or cancelled; or
 - (3) For any other reason his use of the card is unauthorized by either the issuer or

the person to whom the credit card is issued, and

- (4) the value of the property, money, or thing obtained or sought to be obtained is less than \$300.

7-6-10. Deceptive Business Practices - Definitions - Defense.

- (a) A person is guilty of a class B misdemeanor if, in the course of business, he:
 - (1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
 - (2) Sells or offers or exposes for sale or delivers less than the represented quantity or quality of any commodity or services; or
 - (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
 - (4) Sells, offers or exposes for sale adulterated or mislabeled commodities.
 - (A) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any ordinance or statute providing criminal penalties for each variance, or set by established commercial usage.
 - (B) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any ordinance or statute providing criminal penalties for such variance, or set by established commercial usage; or
 - (5) Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services; or
 - (6) Offers, by advertising or other means of communication, to the public or a substantial number of persons, property, or services as part of the scheme or plan, with intent not to sell or provide the advertised property or services;
 - (A) At the price which he offered them; or
 - (B) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
 - (C) At all.
- (b) It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

7-6-11. Bribery of, or Receiving Bribe by, Person in the Business of Selection, Appraisal, or Criticism of Goods or Services.

- (a) A person is guilty of a class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:
 - (1) He confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or
 - (2) He, as an employee, agent, or fiduciary of an employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.
- (b) A person is guilty of violation of this section if he holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services and he solicits, accepts, or agrees to accept any benefit to influence his selection, appraisal, or criticism.

7-6-12. Defrauding Creditors.

A person is guilty of a class B misdemeanor if:

- (a) He destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or
- (b) Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:
 - (1) Destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise obstruct the operation of any law relating to administration of property for the benefit of creditors; or
 - (2) Presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

7-6-13. Using or Making Slugs.

- (a) A person is guilty of a class B misdemeanor if:
 - (1) With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or

- (2) He makes, possesses or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.
- (b) As used in this section:
 - (1) "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.
 - (2) "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.

7-6-14. Criminal Simulation.

- (a) A person is guilty of criminal simulation if, with intent to defraud another:
 - (1) He makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have;
 - (2) He sells, passes, or otherwise utters an object so made or altered;
 - (3) He possesses an object so made or altered with intent to sell, pass, or otherwise utter it;
 - (4) He authenticates or certifies an object so made or altered as genuine or as different from what it is.
- (b) Criminal simulation is a class B misdemeanor if the value defrauded or intended to be defrauded is less than \$300.

7-6-15. False or Fraudulent Insurance Claim.

Every person who presents, or causes to be presented, any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes or subscribes any account, certificate of survey, affidavit or proof of loss, or other book, paper or writing with intent to present or use the same, or to allow it to be presented or used, in support of any such claim, is punishable as in the manner prescribed for theft of property of like value.

7-6-16. Definitions.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments, or

other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.

- (b) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.
- (c) "Purpose to deprive" means to have the conscious object:
 - (1) To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
 - (2) To restore the property only upon payment of a reward or other compensation; or
 - (3) To dispose of the property under circumstances that make it unlikely that the owner will recover it.
- (d) "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.
- (e) "Deception" occurs when a person intentionally:
 - (1) Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction; or
 - (2) Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or
 - (3) Prevents another from acquiring information likely to affect his judgment in the transaction; or
 - (4) Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is not a matter of official record; or
 - (5) Promises performance that is likely to affect the judgment of another in the

transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

7-6-17. Presumptions and Defenses.

The following presumptions and defenses shall apply to this chapter:

- (a) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- (b) It is no defense under this chapter that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.
- (c) It is a defense under this part that the actor:
 - (1) Acted under an honest claim of right to the property or service involved; or
 - (2) Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or
 - (3) Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

7-6-18. Theft - Evidence to Support Accusation.

Conduct denominated theft in this chapter constitutes a single offense embracing the separate offenses such as those heretofore known as larceny, larceny by trick, larceny by bailee, embezzlement, false pretenses, extortion, blackmail, and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in this chapter subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense were prejudiced by lack of fair notice or by surprise.

7-6-19. Theft - Elements.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

7-6-20. Theft by Deception.

- (a) A person commits theft if he obtains or exercises control over property of another by deception and with a purpose to deprive him thereof.

- (b) Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

7-6-21. Theft by Extortion.

- (a) A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.
- (b) As used in this section, extortion occurs when a person threatens to:
 - (1) Cause physical harm in the future to the person threatened or to any other person or to the property at any time; or
 - (2) Subject the person threatened or any other person to physical confinement or restraint; or
 - (3) Engage in other conduct constituting a crime; or
 - (4) Accuse any person of a crime or expose him to hatred, contempt, or ridicule; or
 - (5) Reveal any information sought to be concealed by the person threatened; or
 - (6) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - (7) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
 - (8) Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - (9) Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

7-6-22. Theft of Lost, Mislaid or Mistakenly Delivered Property.

A person commits theft when:

- (a) He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and

- (b) He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph (a).

7-6-23. Receiving Stolen Property.

- (a) A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds, or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.
- (b) The knowledge or belief required for paragraph (a) is presumed in the case of an actor who:
 - (1) Is found in possession or control of other property stolen on a separate occasion; or
 - (2) Has received other stolen property within the year preceding the receiving offense charged; or
 - (3) Being a dealer in property of the sort received, retained, or disposed, acquires it for consideration which he knows is far below its reasonable value.
- (c) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who buys, receives or obtains property shall require the seller or person delivering the property to certify in writing, that he has the legal rights to sell the property. If the value given for the property exceeds \$20 the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to the signature, or any other positive form of identification.
 - (1) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of the pawnbroker or person who fails to comply with the requirements of section (c) above shall be presumed to have bought, received or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof to the contrary.
 - (2) When in a prosecution under this section it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee or representative of a pawnbroker or person, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he bought, received, or obtained the property to sign the certificate required in paragraph (c), and in the event the

transaction involves an amount exceeding \$20, also place his legible print, the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received or obtained was not stolen.

(d) As used in this section:

- (1) "Receives" means acquiring possession, control, or title, or lending on the security of the property;
- (2) "Dealer" means a person in business of buying or selling goods.

7-6-24. Theft of Services.

- (a) A person commits theft if he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment therefor.
- (b) A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.
- (c) As used in this section "services" includes, but is not necessarily limited to, labor, professional service, public utility and transportation services, cable television services, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, and the like, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

7-6-25. Theft by Person Having Custody of Property Pursuant to Repair or Rental Agreement.

A person is guilty of theft if:

- (a) Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or
- (b) Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

7-6-26. Theft by Failure to Make Required Payment or Disposition of Property Subject to Legal Obligation - Presumptions -

Definitions.

- (a) A person commits theft if he obtains property from anyone or personal services from an employee upon agreement, or subject to a known legal obligation to make a specified payment or other disposition to a third person, whether from that property or its proceeds or from his own property to reserved in an equivalent or agreed amount, if he purposely or recklessly fails to make the required payment, or disposition and deals with the property obtained or withheld as his own.
- (b) Liability under paragraph (a) is not affected by the fact that it may be impossible to identify particular property as belonging to the victim at the time of the failure to make the required payment or disposition.
- (c) An officer or employee of the government or of a financial institution is presumed:
 - (1) To know of any legal obligation relevant to his liability under this section, and
 - (2) To have dealt with the property as his own if he fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of his accounts.
- (d) As used in this section:
 - (1) "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or other medium of savings or collective investment.
 - (2) "Government" means the United States, any state, county, municipality or other political unit within this state and any agency, department, or subdivision of the foregoing, or any corporation or other association carrying out the functions of government.

7-6-27. Theft of Water.

- (a) It shall be unlawful for any person to take, use or direct any water belonging to, or in the custody of, Sandy City, by means of any jumper placed upon a meter box, bypass, headgate, pipe, culvert, pump, hose or other devise, without the express authorization of Sandy City.
- (b) It shall be unlawful for any person to turn to divert any water belonging to, or in the custody of, Sandy City, into any private canal, channel, pipe or through any meter, when Sandy City, by means of authorized service personnel, have terminated service or sought to prevent use of the said water by reason of non-payment of bills for service.

7-6-28. Mail Theft. REPEALED 5/11/04.

7-6-29. Identity Fraud Crime.

- (a) For purposes of this part, "personal identifying information" may include"
 - (1) name;
 - (2) address;
 - (3) telephone number;
 - (4) driver's license number;
 - (5) Social Security number;
 - (6) place of employment;
 - (7) employee identification numbers or other personal identification numbers;
 - (8) mother's maiden name;
 - (9) electronic identification numbers;
 - (10) digital signatures or a private key; or
 - (11) any other numbers or information that can be used to access a person's financial resources or medical informatin in the name of another person except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.4 U.C.A.
- (b) A person is guilty of identity fraud when that person knowingly or intentionally:
 - (1) obtains personal identifying information of another person without the authorization of that person; and
 - (2) uses, or attempts to use, that information with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, any other thing of value, or medical information in the name of another person without the consent of that person.
- (c) Identity fraud is:
 - (1) a class B misdemeanor if the value of the credit, goods, services, or any other thing of value is less than \$300.

7-6-30. Theft - Classification of Offense.

Theft of property and services as provided in this chapter shall be punishable as follows:

- (a) As a class B misdemeanor if the value of the property stolen was greater than \$50, but less than \$300; and

- (b) As a class C misdemeanor if the value of the property stolen was \$50 or less.

Chapter 7 OFFENSES AGAINST PUBLIC ORDER AND DECENCY

7-7-1. Riot.

- (a) A person is guilty of riot if:
 - (1) Simultaneously with two or more other persons he engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm; or
 - (2) He assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violent conduct, knowing that two or more other persons in the assembly have the same purpose; or
 - (3) He assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he supposes to be guilty of a violation of law, believing that two or more other persons in the assembly have the same purpose.
- (b) Any person who refuses to comply with a lawful order to withdraw given to him immediately prior to, during, or immediately following a violation of paragraph (a) is guilty of riot. It is no defense to a prosecution under this paragraph that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.
- (c) Riot is a class B misdemeanor unless, in the course of and as a result of the conduct, any person suffers bodily injury, or substantial property damage, arson occurs, or the defendant was armed with a deadly weapon. If the riot results in the aforementioned exceptions to its being a class B misdemeanor, the offense is then felony and punishable by the laws of the State and not the ordinances of the City.

7-7-2. Disorderly Conduct.

- (a) A person is guilty of disorderly conduct if:
 - (1) He refuses to comply with the lawful order of the police to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or
 - (2) Intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof;
 - (A) He makes unreasonable noises in a public place; or

- (B) He makes unreasonable noises in a private place which can be heard in a public place; or
 - (C) He engages in abusive or obscene language or makes obscene gestures in a public place; or
 - (D) He obstructs vehicular or pedestrian traffic.
- (b) "Public place" for the purposes of this section, means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
 - (c) Disorderly conduct is a class C misdemeanor if the offense continues after a request by another person that the actor desist. Otherwise it is an infraction.

7-7-3. Disrupting a Meeting or Procession.

- (a) A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, processing or gathering, he obstructs or interferes with the meeting, processing, or gathering by physical action, verbal utterance, or any other means.
- (b) Disrupting a meeting or procession is a class B misdemeanor.

7-7-4. Failure to Disperse.

- (a) A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been lawfully ordered to disperse by a peace officer.
- (b) This section shall not apply to a person who attempted to, but was unable to leave the scene of the riot or unlawful assembly.
- (c) Failure to disperse is a class C misdemeanor.

7-7-5. Giving a False Alarm.

- (a) A person is guilty of giving a false alarm if he initiates or circulates a report or warning of any fire, impending bombing or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.
- (b) Giving a false alarm is a class B misdemeanor.

7-7-6. Telephone Harassment.

- (a) A person is guilty of telephone or e-mail harassment(2) and subject to

prosecution in the jurisdiction where the telephone call or e-mail originated or was received if with intent to annoy, alarm another, intimidate, offend, abuse, threaten, harass, or frighten any person at the called number or e-mail address or recklessly creating a risk thereof, the person:

- (1) makes repeated telephone calls or e-mails, whether or not a conversation ensues, or after having been told not to call or e-mail back, causes the telephone of another to ring repeatedly or continuously or causes e-mails to be repeatedly received;
 - (2) makes a telephone call or e-mail and insults, taunts, or challenges the recipient of the telephone call or e-mail or any person at the called number or e-mail address in a manner likely to provoke a violent or disorderly response;
 - (3) makes a telephone call or e-mail and threatens to inflict injury, physical harm, or damage to any person or the property of any person.
- (b) A person is guilty of telephone or e-mail harassment if by making the telephone call he violates a protective order issued pursuant to Subsection 30-6-6(2), Utah Code Annotated.
- (c) Telephone or e-mail harassment is a class B misdemeanor.

7-7-7. Emergency Reporting - Interference - False Report.

- (a) As used in this section:
- (1) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.
 - (2) "Party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.
- (b) A person is guilty of emergency telephone abuse if he:
- (1) Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that said telephone is needed to report a fire, summon police, medical, or other aid in case of emergency, unless said telephone is likewise being used for an emergency call; or
 - (2) Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.
 - (3) Reports an emergency or causes an emergency to be reported to any public, private, or volunteer entity whose purpose is to respond to fire, police, or medical

emergencies, when the actor knows the reported emergency does not exist.

- (c) (1) A violation of Subsection (b)(1) or (2) is a class C misdemeanor.
- (2) A violation of Subsection (b)(3) is a class B misdemeanor, except as provided under Subsection (c)(3).
- (3) A violation of Subsection (b)(3) is a second degree felony if the report is regarding a weapon of mass destruction, as defined in Section 76-10-401, U.C.A.
- (d) In addition to any other penalty authorized by law, a court shall order any person convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

7-7-8. Definitions.

For the purposes of this chapter, the following shall apply:

- (a) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.
- (b) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical, or other device.
- (c) "Public" includes any professional or social group of which the victim of a defamation is a member.

7-7-9. Privacy Violation.

- (a) A person is guilty of privacy violation if, except as authorized by law, he:
 - (1) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
 - (2) Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in the place or uses any unauthorized installation; or
 - (3) Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein.
 - (4) Under circumstances not amounting to a violation of 76-9-702.7, Subsection

(1), views or attempts to view an individual, with or without the use of any instrumentality:

(A) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(B) without the knowledge or consent of the individual; and

(C) under circumstances in which the individual has a reasonable expectation of privacy.

(D) A violation is a class B misdemeanor if the person is more than 15 years of age.

7-7-10. Communication Abuse.

(a) A person commits communication abuse if, except as authorized by law, he:

(1) Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; this paragraph does not extend to:

(A) Overhearing messages through a regularly installed instrument on a telephone party line or on an extension; or

(B) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or

(2) Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he learned of the message in the course of employment with an agency engaged in transmitting it.

(b) Communication abuse is a class B misdemeanor.

7-7-11. Criminal Defamation.

(a) A person is guilty of criminal defamation if he, with actual knowledge of the falsity of such a statement, communicates to any person orally or in writing any information which he knows to be false and knows will tend to expose any other living person to public hatred, contempt, or ridicule.

7-7-12. Abuse of Personal Identity.

(a) A person is guilty of abuse of personal identity if, for the purpose of advertising any articles of merchandise for purposes of trade or for any other advertising

purposes, he uses the name, picture, or portrait of any individual or uses the name or picture or any public institution of this state, the official title of any public officer of this state, or of any person who is living, without first having obtained the written consent of his heirs or personal representatives.

- (b) Abuse of personal identity is a class B misdemeanor.

7-7-13. Conveying False or Libelous Material to Newspaper or Broadcasting Stations.

Any person who wilfully states, conveys, delivers, or transmits, by any means whatsoever, to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication therein, any false or libelous statement concerning any person and thereby secures actual publication of the same, is guilty of a class B misdemeanor.

7-7-14. Abuse of Flag.

- (a) A person is guilty of abuse of a flag if he:
 - (1) Intentionally places any unauthorized inscription or other thing upon any flag of the United States or upon any flag of any state of the United States; or
 - (2) Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized; or
 - (3) For purpose of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United States or of a state of the United States to the product or on any display whereon the product or service is advertised; or
 - (4) Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it.
- (b) Abuse of a flag is a class B misdemeanor.

7-7-15. Public Intoxication.

- (a) A person is guilty of public intoxication if he is under the influence of beer, alcoholic beverages, intoxicating liquor, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.
- (b) It shall be unlawful for any person to consume, possess or have, in any City park or upon any public property, any beer, alcoholic beverage, or intoxicating liquor.
- (c) A peace officer or magistrate may release from custody an individual arrested

under this section if he believes imprisonment is unnecessary for the protection of the individual or another.

- (d) An offense under this section shall be deemed a class C misdemeanor.

7-7-16. Lewdness.

- (a) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse or an attempt to commit any of these offenses, performs an act of sexual intercourse or sodomy, exposes his or her genitals or private parts, masturbates, engages in trespassory voyeurism, or performs any other act of lewdness in a public place or under circumstances in which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older.
- (b) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstances constitute a lewd or grossly lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.
- (c) Lewdness is a class B misdemeanor.

7-7-17. REPEALED.

7-7-18. Abuse of a Corpse.

- (a) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully fails immediately and/or by quickest means possible to report the finding of a dead human body to a local law enforcement agency.
- (b) Failure to report the finding of a dead human body as required under subsection (a) is a class B misdemeanor.

7-7-19. Duty to Answer a Police Officer.

- (a) It shall be the duty of every person within the limits of this City, whether or not a resident of the City, to stop when requested to do so by any police officer showing some form of reasonable identification, such as a standard police uniform or badge. Each person so stopped shall have the duty to answer such reasonable questions as may be asked of him by the police officer.
- (b) Police officers are hereby empowered to stop and question persons when there exists a reasonable belief that the person stopped and questioned has been involved in a crime, or where there exists other reasonable cause for the peace officer to believe that the person stopped and questioned would be able to provide information beneficial to the maintenance of the peace, safety, health and public welfare of the citizens of this City.

7-7-20. Emergency Reporting Abuse.

(a) A person is guilty of emergency reporting abuse if he reports an emergency or causes an emergency to be reported to any public, private, or volunteer entity whose purpose is to respond to fire, police, or to medical emergencies, when the actor knows the reported emergency does not exist.

(b) "Emergency Reporting Abuse" is a class B misdemeanor.

7-7-21. Damage to or Interruption of a Communication Device.

(a) As used in this section:

(1) "Communication device" means any device, including a telephone, cellular telephone, computer, or radio, which may be used in an attempt to summon police, fire, medical, or other emergency aid.

(2) "Emergency" means any situation in which:

- (i) property or human health or safety is in jeopardy; and
- (ii) the prompt summoning of aid is essential to the preservation of the property or human safety or health.

(b) A person is guilty of damage to or interruption of a communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts, another person's use of communication equipment when the other person is attempting to summon emergency aid or has communicated a desire to summon emergency aid, and in the process the actor:

- (1) uses force, intimidation, or any other form of violence;
- (2) destroys, disables, or damages communication equipment; or
- (3) commits any other act in an attempt to prohibit or interrupt the person's use of a communication device to summon emergency aid.

(c) It is not a defense to this section that emergency aid was not required.

(d) Damage to or interruption of a communication device is a class B misdemeanor.

Chapter 8 OFFENSES AGAINST GOVERNMENT

7-8-1. Definitions.

For the purposes of this chapter:

- (a) "Public servant" means any officer or employee of the City, state or any political subdivision thereof, including judges, council persons, consultants, jurors, and

persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment, or other designation as such, although he may not yet officially occupy that position.

- (b) "Party official" means any person holding any post in a political party, whether by election, appointment, or otherwise.
- (c) "Pecuniary benefit" means any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reductions or increased prosperity generally.
- (d) A person is a candidate for electoral office upon his filing as a candidate for office under the laws of the state, county, city, or other governmental subdivision.

7-8-2. Campaign Contributions Not Prohibited.

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of an offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

7-8-3. Receiving Bribe or Bribery by Public Servant.

A person is guilty of a class B misdemeanor if:

- (a) Being a public servant, he solicits, accepts, or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised his discretion, or for having violated his duty; or
- (b) He promises, offers, or gives pecuniary benefit, acceptance of which would be a violation of paragraph (a).

7-8-4. Receiving Bribe or Bribery for Endorsement of Person as Public Servant.

A person is guilty of a class B misdemeanor if:

- (a) He solicits, accepts, agrees to accept for himself, another person or political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant; or
- (b) He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph (a).

7-8-5. Failure of Member of City Council to Disclose Interest in Measure

or Ordinance.

Every member of the City Council who has a personal or private interest in any measure or ordinance proposed or pending before the City Council of which he is a member and does not disclose such fact to the other members of the Council of which he is a member and subsequently thereon, is guilty of a class B misdemeanor.

7-8-6. Official Misconduct.

A public servant is guilty of a class B misdemeanor if, with an intent to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or ordinance or is clearly inherent in the nature of his office.

7-8-7. Unlawful Acts Based on "Inside" Information.

A public servant is guilty of a class B misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant, which information has not been made public, he:

- (a) Acquires or divests himself of a pecuniary interest in any property, transaction or enterprise which may be affected by such action or information.
- (b) Speculates or wagers on the basis of such action or information; or
- (c) Knowingly aids another to do any of the foregoing.

7-8-8. Unofficial Misconduct.

- (a) A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public office when:
 - (1) He has not taken and filed the required oath of office; or
 - (2) He has failed to execute or file the required bond; or
 - (3) He has not been elected or appointed to office, or
 - (4) He exercises any of the functions of his office after his term has expired and the successor has been elected or appointed and has qualified, or after his office has been legally removed; or
 - (5) He knowingly withholds or retains from his successor in office or other person entitled thereto the official seal or any records, papers, documents, or other writings appertaining or belonging to his office or mutilates, destroys or takes away the same.
- (b) Unofficial misconduct is a class B misdemeanor.

7-8-9. Interference with a Public Servant or Officer.

A person is guilty of a class B misdemeanor if he uses force, violence, intimidation or engages in any other unlawful act with a purpose to interfere with a public servant or officer performing or purporting to perform an official function. The term "public officer" shall specifically include, but shall not be limited to, police officers of Sandy City, Salt Lake County or any other governmental agency of the State of Utah.

7-8-10. Picketing or Parading in or Near Court.

A person is guilty of a class B misdemeanor if he pickets or parades in or near a building which houses a court of the state, county, or city or other governmental unit, with the intent to obstruct access to that court or to affect the outcome of a case pending before that court.

7-8-11. Disturbing an Official Meeting.

- (a) A person is guilty of a class B misdemeanor if he intentionally disturbs any official meeting or commits any disorderly conduct in immediate view and presence of participants in an official meeting and thereby tending to interrupt its proceedings.
- (b) "Official meeting" as used in this section means any lawful meeting of public servants for the purposes of carrying on governmental functions.

7-8-12. Interference with Arresting Officer.

A person is guilty of a class B misdemeanor if he has knowledge, or by the exercise of reasonable care should have knowledge, that a peace officer is seeking to effect a lawful arrest or detention of that person or another and interferes with the arrest or detention by:

- (a) use of force or any weapon;
- (b) the arrested person's refusal to perform any act required by lawful order:
 - (1) necessary to effect the arrest or detention; and
 - (2) made by a peace officer involved in the arrest or detention; or
- (c) the arrested person's or another person's refusal to refrain from performing any act that would impede the arrest or detention.

7-8-13. Obstruction of Justice -- Elements -- Penalties -- Exceptions.

- (a) An actor commits obstruction of justice if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction or punishment of any person regarding conduct that continues a criminal offense:
 - (1) alters, destroys, conceals, or removes any item or other thing;

- (2) makes, presents, or uses any item or thing known by the actor to be false;
 - (3) harbors or conceals a person, or conceals the identity of the offender;
 - (4) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;
 - (5) warns any person of impending discovery or apprehension;
 - (6) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information;
 - (7) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation; or
 - (8) obstructs by force, intimidation or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person.
- (b) (1) As used in this section, "conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section, and includes:
- A. any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and
 - B. conduct committed by a juvenile which would be a crime if committed by an adult.
- (2) A violation of a criminal statute that is committed in another state or any district, possession or territory of the United States, is a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.
- (c) Obstruction of justice is:
- (1) a class B misdemeanor if the conduct that constitutes the offense is a misdemeanor and the actor violates Subsection (1)(a) through (1)(8).
 - (2) Subsection (a)(3) does not apply to harboring a youth offender, which is governed by Section 62A-7-106.

7-8-14. Failure to Aid a Peace Officer.

A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person. Any peace officer shall have the authority under this section, when an emergency demands and eminent danger is present to himself or another from whatever source, to take temporary custody, control and possession

of any vehicle, instrument or communication device for official purposes and no person shall fail to relinquish the same; provided, however, that the owner or custodian thereof shall be entitled to reasonable compensation for the use thereof.

7-8-15.

7-8-16.

7-8-17. Failure to Appear or Comply.

- (a) A person is guilty of an offense when having been released on bail or on his own recognizance by court order or by other lawful authority upon condition that he subsequently appear personally upon a charge of an offense, he fails, without just cause, to appear at the time and place which have been lawfully designated for his appearance; or otherwise fails to comply with any lawful order of the court.

- (b) An offense under this section is a class C misdemeanor.

7-8-18. Failure to Pay Over Fine, Forfeiture or Fee.

Every public officer who receives any fine, forfeiture, or fee and refuses or neglects to pay the same over to the City within the time prescribed by law is guilty of a class B misdemeanor.

7-8-19. Injuring or Removing Monuments of Official Surveys.

Every person who wilfully injures, defaces or removes any signal, monument, building, or appurtenance thereto, placed, erected, or used by person engaged in any governmental survey is guilty of a class B misdemeanor.

7-8-20. Tampering With Official Notice or Proclamation.

Every person who intentionally defaces, obliterates, tears down, or destroys any copy or transcript or extract from or of any law of the United States, or of this state, county, or city, or any proclamation, advertisement, or notice, set up at any place in this city by authority of any law of the United States, this state, county, or city or by order of any court or of any public officer, before the expiration of the time for which the same was to be set up, is guilty of an infraction.

7-8-21. Removing, Injuring or Possessing Road Signs.

Every person who maliciously removes or injures, or who has in his possession without any legal right thereto, any milepost, sign or other highway marker or any inscription thereon, erected upon any highway, municipal street or road, shall be guilty of a class B misdemeanor.

7-8-22. False or Inconsistent Statements.

A person is guilty of a class B misdemeanor if:

- (a) He makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he does not believe that statement to be true if:
 - (1) The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his official functions; or
 - (2) The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or
- (b) He makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the defendant to be true.
- (c) No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

7-8-23. Written False Statement.

A person is guilty of a class B misdemeanor if:

- (a) He makes a written false statement which he does not believe to be true or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or
- (b) With intent to deceive a public servant in the performance of his official function, he:
 - (1) Makes any written false statement which he does not believe to be true; or
 - (2) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or
 - (3) Submits or invites reliance on any writing which he knows to be lacking in authenticity; or
 - (4) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false.
- (c) No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

7-8-24. Perjury or False Swearing.

- (a) On any prosecution for perjury or false swearing, except a prosecution upon inconsistent statements, pursuant to 7-8- 27(b), falsity of a statement may not be

established solely through contraction by the testimony of a single witness.

- (b) No prosecution shall be brought under this part when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

7-8-25. False Reports of Offenses to Law Enforcement Officer.

A person is guilty of a class B misdemeanor if he:

- (a) Knowingly gives or causes to be given false information to any law enforcement officer with the purpose of inducing the officer to believe that another has committed an offense; or
- (b) Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

7-8-26. False Information to a Peace Officer.

A person commits a class C misdemeanor if, with intent of misleading a peace officer as to the person's identity, birth date, or place of residence, the person knowingly gives a false name, birth date, or address to a peace officer in the lawful discharge of the peace officer's official duties.

7-8-27. Falsification or Alteration of Government Record.

A person is guilty of a class B misdemeanor if he:

- (a) Knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by the City for information or record, or required by law to be kept for information of the City; or
- (b) Presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or records referred to in paragraph (a); or
- (c) Intentionally and unlawfully destroys, conceals, or otherwise impairs the verity or availability of any such thing.
- (d) Not under oath or affirmation, intentionally or knowingly gives false or misleading material information to an officer of the court for the purpose of influencing a criminal proceeding.

(1) For the purposes of this section "officer of the court" means:

- (A) prosecutor;
- (B) judge;
- (C) court clerk;

- (D) interpreter;
- (E) pre-sentence investigator;
- (F) probation officer;
- (G) parole officer; and
- (H) any other person reasonably believed to be gathering information for a criminal proceeding.

(2) This section does not apply under circumstances amounting to Section 76-8-306 or any other provision of state code carrying a greater penalty.

7-8-28. Impersonation of an Officer.

A person is guilty of a class B misdemeanor if he impersonates a public servant or a peace officer with the intent to deceive another or with the intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.

7-8-29. False Judicial or Official Notice.

A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction by which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal or printed form of a federal, state, or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.

7-8-30. Unlawful Acts in or About Schools, Colleges or Universities.

- (a) It shall be unlawful for any person to:
 - (1) Annoy, disturb, or otherwise disrupt the orderly conduct of the activities, administration, or classes, of any school, college or university.
 - (2) Annoy, disturb, assault or molest any student or employee of any school, college or university while in or on such school, college, or university building or on the grounds thereof.
 - (3) Loiter, idle, wander, stroll, or play in, about or on any school, college or university grounds, or building, either on foot, or in, or on, any vehicle, without having some lawful business therein, or thereabout, or in connection with such school, college or university, or the employees thereof;
 - (4) Conduct himself or herself in a lewd, wanton, or lascivious manner in speech or behavior in or about any school, college or university building or grounds;
 - (5) Park or move a vehicle in the immediate vicinity of, or on the grounds of any school, college, or university for the purpose of annoying or molesting the

students or employees thereof; or in an effort to induce, entice or invite students or employees into or on the vehicle for immoral purposes;

- (b) Any person violating any provisions of this section shall be deemed guilty of a class b misdemeanor.

Chapter 9

OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE AND MORALS

7-9-1. "Place of Business" and "Enclosed Public Place" Defined.

For the purpose of this chapter, the following definitions shall apply:

- (a) "Place of business" means any and all such places as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, pool rooms, cafes, cafeterias, cabarets, restaurants, motels, lodging houses, street cars, buses, interurban and railway passenger coaches and waiting rooms.
- (b) "Enclosed public place" means the dining rooms in hotels, restaurants, cafes and cafeterias, theaters, arenas, passenger elevators, streetcars, buses, interurban and railway passenger coaches, motor and other passenger vehicles used by common carriers, railway station waiting rooms, and state, county and city buildings; but the owner or proprietor of any hotel dining room, restaurant, cafe, or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance, and in any state, county, or city building any public officer who has a private office, separate and apart from his public office, may, if he so desires, designate the private office as a place where smoking may be permitted, and, so long as the private office is so designated, smoking therein shall not be considered in violation of this action.

7-9-2. Advertising Restrictions on Cigarettes and Tobacco.

It is a misdemeanor for any person to display on any billboard, streetcar, streetcar sign, bus, placard, or on any other object or place of display, any advertisement of cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute or either in any newspaper, magazine, or periodical printed or circulating in this City.

7-9-3. Permitting Minors to Use Tobacco in Place of Business.

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit persons under the age of nineteen to frequent a place of business while they are using tobacco.

7-9-4.

7-9-5. Abuse of Psychotoxic Chemical Solvents.

- (a) A person is guilty of abuse of a psychotoxic chemical solvent if:
 - (1) For the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:
 - (A) Smells or inhales the fumes of any psychotoxic chemical solvent; or
 - (B) Possesses, purchases, or attempts to possess or purchase any psychotoxic chemical solvent.
 - (2) Knowing or believing that a purchaser or another intends to use a psychotoxic chemical solvent in violation of subsection (a)(1)(A) or (a)(1)(B), sells or offers to sell any psychotoxic chemical solvent.
- (b) This section shall not apply to the inhalation of any anesthesia for medical or dental purposes.
- (c) Abuse of psychotoxic chemical solvents is a class B misdemeanor.
- (d) As used in this section, psychotoxic chemical solvent includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethylketone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, inhalation of the fumes or vapors of such chemical substance regulated by the Utah State Code (Annotated, 1953) or by the ordinances of this City.

7-9-6. Interference with Control of Water.

Every person who in any way interferes with or alters the flow of water in any stream, ditch, or lateral while such water is under the control or management of any water control officer or water commissioner or under the control of the City, is guilty of a class B misdemeanor.

7-9-7. Taking Water out of Turn or Injuring Facilities.

Every person who, in violation of any right of any other person, willfully turns or uses the water or any part thereof, of any canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the person, or willfully uses any greater quantity of the water than has been duly distributed to him or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, water gate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor.

7-9-8. Fencing of Shaft and Wells and Swimming Pools.

- (a) Any person who has sunk or shall sink a shaft or well on the public domain for

any purpose shall enclose it with a substantial curb or fence, which shall be at least six feet (6') high.

- (b) Every owner of a swimming pool located within the limits of Sandy City shall enclose it with a substantial fence, which shall be at least six feet (6') high.
- (c) Any violation of the provisions of this section shall be a class B misdemeanor.

7-9-9. Definitions.

For purposes of this chapter, the following definitions shall apply:

- (a) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object or thing; the character of the wound produced, if any; and the manner in which the instrument, object or thing was used shall be determinative.
- (b) "Firearms" means pistols, revolvers, sawed-off shotguns, or sawed-off rifles, and/or any device that could be used as a weapon from which is expelled a projectile by any force, regardless of whether the motive force by which the projectile is expelled is air, gun-powder, a chemical combination, gas or any other element.
- (c) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches in length, or in the case of a rifle, having a barrel or barrels of less than sixteen inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if the weapon as modified has an overall length of less than 26 inches.
- (d) "Prohibited area" means any place where it is unlawful to discharge a weapon.
- (e) "Bureau" means the Utah State Bureau of Criminal Identification.

7-9-10. When Weapon Deemed Loaded.

For the purpose of this section, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position, except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

7-9-11. Carrying Concealed Dangerous Weapon -- Penalties.

(a) Except as provided in Section 76-10-503 U.C.A. and in Subsections (2) and (3):

(1) A person who carries a concealed dangerous weapon as defined in Section 76-10-501, U.C.A., which is not a firearm on his person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in a place other than his residence, property, or business under his control is guilty of a class B misdemeanor; and

(2) a person without a valid concealed firearm permit who carries a concealed dangerous weapon which is a firearm and that contains no ammunition is guilty of a class B misdemeanor.

7-9-11A. Carrying Dangerous Weapon While Under Influence Of Alcohol Or Drugs Unlawful.

(a) Any person who carries a dangerous weapon while under the influence of alcohol or a controlled substance as defined in Section 58-37-4, Utah Code Annotated, is guilty of a class B misdemeanor. Under the influence means the same level of influence or blood or breath alcohol concentration as provided in Section 41-6-44, Utah Code Annotated.

(b) It is not a defense to prosecution under this section that the person:

- (1) is licensed in the pursuit of wildlife of any kind; or
- (2) has a valid permit to carry a concealed firearm.

7-9-12. Carrying Loaded Firearm in Vehicle or Upon Street..

Every person who carries a loaded firearm in a vehicle or on a public street in this City is guilty of a class B misdemeanor.

7-9-13. Unlawful use of a laser pointer -- Definitions - Penalties.

(a) As used in this section:

(1) "Laser light" means light that is amplified by stimulated emission of radiation.

(2) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at a person.

(3) "Law enforcement officer" means an officer under Section 53-13-103.

(b) A person is guilty of unlawful use of a laser pointer if the person directs a beam of

laser light from a pointer at:

- (1) a moving motor vehicle or its occupants; or
 - (2) one whom the person knows or has reason to know is a law enforcement officer.
- (c) It is an affirmative defense to a charge under Subsection (b)(2) that:
- (1) the law enforcement officer was:
 - A. Not in uniform;
 - B. Not traveling in a vehicle identified as a law enforcement vehicle; and
 - C. Not otherwise engaged in an activity that would give the person reason to know him to be a law enforcement officer; and
 - (2) the law enforcement officer was not otherwise known by the person to be a law enforcement officer.
- (d) Violation of Subsection (b)(1) is an infraction. Violation of Subsection (b)(2) is a class C misdemeanor.
- (e) If the violation of this section constitutes an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

7-9-14. Discharge of Firearm from Vehicle, Near a Highway or in Direction of any Person, Building, or Vehicle -- Penalties.

- (a) A person may not discharge any kind of dangerous weapon or firearm:
- (1) from an automobile or other vehicle;
 - (2) from, upon, or across any highway;
 - (3) at any road signs placed upon any highways of Sandy City;
 - (4) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
 - (5) at railroad equipment or facilities including any sign or signal;
 - (6) within Sandy City buildings, designated camp or picnic sites, overlooks, golf courses, boat ramps and developed beaches; or
 - (7) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

- (i) a house, dwelling, or any other building; or
 - (ii) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.
- (b) It shall be a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.
- (c) A violation of any provision of this section is a class B misdemeanor.

7-9-14A. Hunting Prohibited.

- (a) It is unlawful for any person to engage in the act of hunting or to carry an uncased firearm under conditions which may be reasonably construed as hunting within the City limits of Sandy City.
- (b) As used within this section, "hunting" is the search for or pursuit of any wild game animal or protected wildlife animal, bird or mammal, with the purpose of capturing or killing or attempting to capture or kill regardless of whether such kill or capture is actually effected.
- (c) Any violation of this section is a class B misdemeanor.

7-9-15. Possession of Dangerous Weapon by Minor.

- (a) A minor under the age of eighteen may not possess a dangerous weapon as defined herein unless he has the permission of his parent or guardian to have such a weapon or is accompanied by a parent or guardian while such weapon is in his possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult whenever said minor is in possession of a dangerous weapon.
- (b) In any violation of this section, the parent or guardian of the minor involved shall bear the responsibility for the violation.
- (c) A violation of this section is a class B misdemeanor.

7-9-16. Hand Gun Dealer's Records.

All dealers who sell hand guns in this City shall cause a record form, provided by the Bureau, to be filled out in triplicate. The dealer shall retain one copy and forward the original and one copy to the local police chief within ten days from the date of sale. The police chief shall, within ten days of the receipt of the original and the copy, forward the original to the bureau. A violation of this section is an infraction.

7-9-17. Soliciting Contributions.

- (a) No charitable organization, professional fund raiser, or professional solicitor,

seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions, in this City, without the written consent of the person whose name is so used; provided, that the provisions of this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious corporation or organization.

- (b) It shall be unlawful to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed or referred to as one who has contributed to, sponsored or endorsed the charitable organization or its activities.
- (c) A violation of this section is a class B misdemeanor.

7-9-18. "Nuisance" Defined.

A nuisance is any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome. Any person who contributes, creates, aids in creating, continues, supports, or retains a nuisance, whether as owner, agent, or occupant, is guilty of a class B misdemeanor.

7-9-19. Befouling Waters.

A person is guilty of a class B misdemeanor if he:

- (a) Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or
- (b) Deposits, piles, unloads, or leaves any manure heap, offensive rubbish, or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well, or spring of water used for domestic purposes; or
- (c) Dips or washes sheep in any stream or constructs, maintains, or uses any pool or dipping vat for dipping or washing sheep in such close proximity to any stream used by the inhabitants of this City for domestic purposes as to make the waters thereof impure or unwholesome; or
- (d) Constructs or maintains any corral, yard, or vat to be used for the purpose of shearing or dipping sheep within twelve miles of this City, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of the City for domestic purposes; or
- (e) Establishes and maintains any corral, camp, or bedding place for the purpose of herding, holding, or keeping any cattle, horses, sheep, goats, or hogs within this City, where the refuse or filth from the corral, camp, or bedding place will

naturally find its way into any stream of water or other water source used by the inhabitants of the City for domestic purposes.

7-9-20. Public Nuisance Defined.

- (a) A "public nuisance" is a crime against the order and economy of the City and consists in unlawfully doing any act or omitting to perform any duty, which act or omission either:
 - (1) Annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons; or
 - (2) Offends public decency; or
 - (3) Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage, any lake, stream, canal, or basin or any public park, square, street or highway; or
 - (4) In any way renders three or more persons insecure in life or the use of property ; or
 - (5) Is a nuisance as defined in Section 78-38-9, U.C.A.
- (b) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the fact that the extent of annoyance or damage inflicted on individuals is unequal.

7-9-21. Maintaining, Committing or Failing to Remove a Public Nuisance.

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor.

7-9-22. Carcass or Offal - Prohibition Relating to Disposal.

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop into any river, creek, pond, street, alley, or public highway, or road in common use, or who attempts to destroy it by fire while within the limits of the City is guilty of a class B misdemeanor.

7-9-23. "Junk Dealer" Defined.

For purposes of this chapter, the term "junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand, or castoff material of any kind such as old iron, copper, brass, lead, zinc, tin, and other metals, cables, wires, ropes, bottles, bagging, rags, rubber, paper, and other like materials.

7-9-24. Fraudulent Practices to Affect Market Price.

Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price or any kind of property, is guilty of a class B misdemeanor.

7-9-25. Junk Dealer's Record of Sales and Purchases.

Every junk dealer shall keep a book in which shall be written in ink and in the English language, at the time of each and every purchase and sale, a listing of the weight and metallic description of the sale or purchase, together with the full name and residence of the person or persons selling the junk, together with the date and place of the purchase and sale. No entry in the book shall be erased, mutilated or changed. The book and entries shall at all times be open to inspection by the sheriff of the county or any of his deputies and by any member of the police force of the City and by any other state, municipal, or county official; provided, that this part shall not apply to the sale of less than twenty pounds. Any junk dealer found guilty of a violation of any of the provisions of the two just preceding sections shall be guilty of a class B misdemeanor.

7-9-26. Falsification of Seller's Statement to Junk Dealer.

Any seller who, in making his statement as contemplated by Section 7-9-25 in selling, offering, or trying to sell junk wilfully makes a false statement or gives untrue information, shall be guilty of a class B misdemeanor.

7-9-27. Definitions.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Gambling" means risking anything of value for return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, and gambling includes a lottery; however, gambling does not include:
 - (1) A lawful business transaction, or
 - (2) Playing an amusement device that confers only an immediate and unrecorded right to replay not exchangeable for value.
- (b) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portions of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise or by whatever name it may be known.
- (c) "Gambling bet" means money, checks, credit, or any other representation of

value.

- (d) "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.
- (e) "Gambling proceeds" means anything of value used in gambling.

7-9-28. Gambling.

- (a) A person is guilty of gambling if he:
 - (1) Participates in gambling; or
 - (2) Knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property, owned, rented, or under the control of the actor, whether in whole or in part.
- (b) Gambling is a class B misdemeanor.

7-9-29. Gambling Fraud.

- (a) A person is guilty of gambling fraud if he participates in gambling and wins or acquires to himself or another any gambling proceeds when he knows he has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all the participants.
- (b) A person convicted of gambling fraud shall be punished as in the case of theft or property of like value.

7-9-30. Possession of Gambling Device or Record.

- (a) A person is guilty of possessing a gambling device or record if he knowingly possesses it with intent to use it in gambling.
- (b) Possession of a gambling device or record is a class B misdemeanor.

7-9-31. Failure to Prosecute Offenses.

Any prosecuting attorney, sheriff, constable, or police officer who has reasonable cause to believe that any person has violated any provision of these ordinances concerning the prohibition against gambling and shall thereafter fail or refuse to diligently prosecute such persons is guilty of a class B misdemeanor.

7-9-32. Confidence Game.

- (a) Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument, or device commonly called a confidence game shall be punished as in the case of theft of property of like value.
- (b) In every indictment, information, or complaint under this section, it shall be

deemed and held a sufficient description of the offense to charge that the accused did, on _____(insert date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from _____, (insert the name of the victim) his money or property (as the case may be) by means and by use of a confidence game.

7-9-33. Definitions.

For purposes of this chapter, the following definitions shall apply:

- (a) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any recording, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.
- (b) "Performance" means any physical human bodily activity, whether engaged in alone or with other persons, including, but not limited to signing, speaking, acting, simulation, or pantomiming.
- (c) "Distribute" means to transfer possession of materials whether with or without consideration.
- (d) "Knowing" means an awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is for the purpose of avoiding the disclosure.
- (e) "Exhibit means to show.

7-9-34. Pornographic Material or Performance.

- (a) Any material or performance is pornographic if considered as a whole, applying contemporary community standards:
 - (1) Its predominant appeal is to prurient interest; and
 - (2) It goes substantially beyond customary limits of candor in the description or representation of nudity, sex, or excretion.
- (b) In any prosecution dealing with an offense relating to pornographic material or performances, the question whether the predominant appeal of material or of a performance is to prurient interest shall be determined with reference to average adults.
- (c) Neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the pornographic character of the material or performance which is the subject of prosecution under this chapter.

7-9-35. Distributing Pornographic Material.

- (a) A person is guilty of distributing pornographic material when he knowingly:
 - (1) Sends or brings any pornographic material into this City with intent to distribute or exhibit it to others; or
 - (2) Prepares, publishes, prints or possesses any pornographic material with intent to distribute or exhibit it to others; or
 - (3) Distributes or offers to distribute, exhibits or offers to exhibit, any pornographic material to others; or
 - (4) Writes, creates, or solicits the publication or advertising of pornographic material; or
 - (5) Promotes the distribution or exhibition of material which he represents to be pornographic; or
 - (6) Presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion thereof which makes it pornographic.
- (b) Distributing pornographic material is a class B misdemeanor.

7-9-36. Affirmative Defenses.

The following shall be affirmative defenses to prosecution under Section 7-9-35:

- (a) That the distribution of pornographic material was restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material; or
- (b) That the actor was a motion picture projectionist or a motion picture machine operator who is regularly employed to operate a projection machine in a public motion picture theater and he is required to project the materials as part of his employment.

7-9-37. Seizure and Disposition of Prohibited Materials.

- (a) Any person who is authorized to arrest a person for violation of Section 7-9-35 is also authorized to seize any of the prohibited articles found in possession or under the control before whom the person arrested is required to be taken.
- (b) The magistrate to whom any of the prohibited articles are delivered pursuant to subsection (a) must, upon the examination of the accused, or if the examination is delayed or prevented, without awaiting the examination, determine the character of the article, and if he finds it to be pornographic or harmful to minors, he must deliver one copy to the prosecuting attorney of the City, and must at once

impound all the other copies until the defendant is acquitted, the prosecution abandoned, or the time for an appeal has elapsed, or in case of an appeal, until the matter is finally adjudicated by the appropriate appellate court, and then he shall cause them to be destroyed or returned to the accused, as the case may be.

- (c) Upon the final conviction of the accused, the prosecuting attorney must cause any writing, paper, book, picture, print, design, figure, still or motion picture, photograph, or negative thereof, photocopy, engraving, sound recording, card, instrument, or other thing which is pornographic or harmful to minors, in respect whereof the accused stands convicted and which remains in the possession or under the control of the prosecuting attorney, to be destroyed.

7-9-38. Fornication.

- (a) Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.
- (b) Fornication is a class B misdemeanor.

7-9-39. Definitions.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.
- (b) "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.
- (c) "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.
- (d) "Public place" means any place to which the public or any substantial group thereof has access.

7-9-40. Prostitution.

- (a) A person is guilty of prostitution when:
 - (1) He engages or offers or agrees to engage in any sexual activity with another person for a fee; or
 - (2) Is an inmate of a house of prostitution; or
 - (3) Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

- (b) Prostitution is a class B misdemeanor.

7-9-41. Patronizing a Prostitute.

- (a) A person is guilty of patronizing a prostitute when:
- (1) He pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or
 - (2) He enters or remains in a house of prostitution for the purpose of engaging in sexual activity.
- (b) Patronizing a prostitute is a class B misdemeanor.

7-9-42. Aiding Prostitution.

- (a) A person is guilty of aiding prostitution if he:
- (1) Solicits a person to patronize a prostitute; or
 - (2) Procures or attempts to procure a prostitute for a patron; or
 - (3) Leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
 - (4) Solicits, receives, or agrees to receive any benefit for doing any of the acts prohibited by this section.
- (b) Aiding prostitution is a class B misdemeanor.

7-9-43. Definition.

For purposes of this chapter, the term "controlled substance" refers to those substances listed in the schedules found in the Utah Code Annotated, 1953, as in force at the close of the fourteenth legislature (1973) at 58-37-4. The term "controlled substance" shall be deemed to include any other substances later added to the schedules found in 58-37-4 as referred to above.

7-9-44. Possession of Controlled Substance.

- (a) It shall be unlawful for:
- (1) Any person knowingly and intentionally to possess(3) or use a controlled substance, unless it was obtained pursuant to a valid prescription or order or directly from a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this subsection;
 - (2) Any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place, knowingly and intentionally to permit the same to be occupied by persons unlawfully possessing, using or

distributing controlled substances therein;

- (3) Any person knowingly and intentionally to be present where controlled substances are being used or possessed in violation of this section and the use or possession is open, obvious, apparent, and not concealed from those present. No person shall be convicted under this action if the evidence that he did not use the substance himself or advise, encourage or assist anyone else to do so; provided, however, that incidence of prior unlawful use of controlled substance by the defendant may be admitted to rebut this defense;
- (4) Any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.
- (b) Possession of a controlled substance is a class B misdemeanor if it is done by a person as a first offense; otherwise, the provisions of this section do not apply.

7-9-45. Sale and Display of Narcotic and Other Paraphernalia.

- (a) Minors. No owner, manager, proprietor or other person in charge of any place of business selling, displaying for the purpose of sale, any device, contrivance, instrument, or paraphernalia for smoking, injecting or consuming marijuana, hashish, PCP, cocaine, or any controlled substance, as defined in Section 7-9-43 of the Revised Ordinances of Sandy City, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips, and cigarette and rollers designed for the smoking of the foregoing, shall allow or permit any person under the age of eighteen (18) years to be, remain in, enter or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian.
- (b) Minors - Excluded. A person under the age of eighteen (18) years shall not be in, enter or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments or paraphernalia for smoking, ingesting or injecting marijuana, hashish, PCP, cocaine, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless such person is accompanied by one of his or her parents, or his or her legal guardian.
- (c) Sale and Display Rooms. A person shall not in any place of business to which the public is invited display for sale, or the offering to sell, of devices, contrivances, instruments or paraphernalia for smoking, ingesting or injecting marijuana, hashish, PCP, cocaine, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. Each entrance to such a room shall have a sign posted in reasonably visible and legible words to the effect that narcotic

paraphernalia are being offered for sale in such a room, and minors unless accompanied by a parent or legal guardian are excluded.

- (d) Nuisance. The distribution or possession for the purpose of sale, exhibition, or display in any place of business from which minors are not excluded as set forth in this section, and where devices, contrivances, instruments or paraphernalia for smoking, ingesting or injecting marijuana, hashish, PCP, cocaine, or any controlled substance, other than prescription drugs or devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of law. This remedy is in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this chapter and of the Revised Ordinances of Sandy City.

7-9-46. Soil Erosion/Blowing Dust as a Public Nuisance.

- (a) Declaration of Nuisance. Soil erosion caused by wind and dust storms produced thereby and blowing of dust, soil and sand are hereby declared to be destructive of property within and natural resources of the City and are harmful to the health and well-being of the residents of the City. The Sandy City Council does hereby declare conditions causing, allowing, or maintaining blowing dust, soil or sand to be public nuisances.
- (b) Duty of Landowner. To conserve property and the natural resources of the City and to prevent injurious effects of blowing dust, soil or sand. It is the duty of the owner of real property and the duty of all responsible parties to prevent, by appropriate means, the blowing of dust, soil or sand.
- (c) Action by Engineering Department. When the City Engineer is advised of blowing dust, soil or sand and is supplied with a description of such nuisance, or when by reason of such blowing the streets or other public property are damaged, the Engineer is authorized to immediately inspect or cause to be inspected the source of such blowing. Should the Engineer determine that such blowing is injurious to persons, property, streets, public property or public health and convenience, the Engineer shall then determine what may be done to prevent or lessen such nuisance. Should the Engineer determine that such blowing can be prevented or lessened, he is hereby authorized to issue an order to the responsible party specifying the nature of the nuisance, the treatment required, the extent thereof, the date by which such treatment is to be commenced and the date such treatment is to be completed. Notice of such order shall be served by regular mail, postage prepaid, to the last known address of the responsible party.
- (d) Appeal of Order. Any responsible party aggrieved(4) by the issuance or extent of an order issued under authority of this ordinance, may appeal the issuance or extent of such order to the Mayor of Sandy City. Any appeal must be brought no

later than thirty (30) days after the order is issued and a copy thereof is mailed to the responsible party. A determination regarding the appeal, when made by the Mayor, shall be final.

- (e) Method of Enforcement. If the treatment ordered by the Engineer is not performed in the manner and to the extent specified in the order, if no appeal is taken; or, is not performed in the manner and to the extent specified in the order or amendment thereof within three days of any decision rendered by the Mayor as a result of an appeal of an order issued by the Engineer:

- (1) The City Attorney may bring an action for abatement of the blowing condition as authorized by the provisions of Section 76-10-806, U.C.A. 1953, as amended, or its successor sections, or
- (2) The Engineer is authorized to employ necessary assistance and cause such treatment to be performed. The Engineer shall prepare an itemized statement of all expenses incurred in the treatment and shall mail a copy of the date of mailing. Such notice shall be deemed delivered when mailed by registered mail and addressed to the last known address of the property owner.

Methods of compelling and collecting payment shall be as authorized by the provisions of Section 9-3-6 et seq. or its successor sections.

7-9-47. Use and Possession of Drug Paraphernalia.

- (a) Definitions. As used in this section, "Drug Paraphernalia(5)" means any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale, or to otherwise introduce a controlled substance into the human body in violation of Chapter 37, Title 58, Utah Code Annotated, 1953, and includes, but is not limited to:

- (1) Kits used, or intended for use, in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be contrived;
- (2) Kits used, or intended for use, in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
- (3) Isomerization devices used, or intended for use, to increase the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness, or purity of a controlled substance;
- (5) Scales and balances used, or intended for use, in weighing or measuring a controlled substance;

- (6) Diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannited, dextrose and lactose, used, or intended for use to cut a controlled substance;
- (7) Separation gins and sifters used, or intended for use to remove twigs, seeds, or other impurities from marihuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used or intended for use to compound a controlled substance;
- (9) Capsules, balloons, envelopes, and other containers used, or intended for use to package small quantities of a controlled substance;
- (10) Containers and other objects used, or intended for use to store or conceal a controlled substance;
- (11) Hypodermic syringes, needles, and other objects used, or intended for use to parenterally inject a controlled substance into the human body; and
- (12) Objects used, or intended for use to ingest, inhale, or otherwise introduce marihuana, cocaine, hashish, or hashish oil into the human body, including but not limited to:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water Pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips; meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;
 - J. Air-driven pipes;
 - K. Chillums;
 - L. Bongs; and

- M. Ice pipes or chillers.
- (b) Unlawful Acts. It is unlawful for any person to use, or possess with intent to use, drug paraphernalia as defined in subsection (a).
- (c) Determination of Drug Paraphernalia. In determining whether an object is drug paraphernalia, the trier of fact, in addition to all other logically relevant factors, should consider:
- (1) statements by an owner or by anyone in control of the object concerning its use;
 - (2) prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to a controlled substance;
 - (3) the proximity of the object, in time and space, to a direct violation of this section;
 - (4) the proximity of the object to a controlled substance;
 - (5) the existence of any residue of a controlled substance on the object;
 - (6) instructions whether oral or written, provided with the object concerning its use;
 - (7) descriptive materials accompanying the object which explain or depict its use;
 - (8) national and local advertising concerning its use;
 - (9) the manner in which the object is displayed for sale;
 - (10) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - (11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - (12) the existence and scope of legitimate uses of the object in the community; and
 - (13) expert testimony concerning its use.
- (d) Drug paraphernalia is subject to seizure and forfeiture and no property right can exist in it.

AMENDMENT - Section 7-9-47 added, Ord. 89-65, passed Dec. 19, 1989. PUB. January 11, 1990.

8 added, Ord. 90-27, passed 4/24/90. PUB. May 24, 1990.

Chapter 10 SANCTIONS, FINES AND PENALTIES

7-10-1. Sanctions.

- (a) A person who has been convicted of an offense under these ordinances may be sentenced to any one of the following sentences or a combination of sentences:
 - (1) To pay a fine; or
 - (2) To probation; or
 - (3) To imprisonment.
- (b) This chapter shall not deprive a court of authority conferred by law to forfeit property, suspend or cancel a license or permit, cite for contempt, or impose any other civil penalty. A civil penalty may be included as a part of any sentence.

7-10-2. Fines. (General Sanctions)

- (a) A person who has been convicted of an offense may be sentenced to pay a fine not exceeding \$1000.00:
 - (1) \$1000 when the conviction is of a class B misdemeanor;
 - (2) \$750 when the conviction is of a class C misdemeanor or infraction.
- (b) The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code for which no special corporate fine is specified shall be to pay an amount, fixed by the court, not exceeding:
 - (1) \$5,000 when the conviction is for a class B misdemeanor; and
 - (2) \$1,000 when the conviction is for a class C misdemeanor or an infraction.

7-10-3. Imprisonment.

- (a) A person who has been convicted of a class B misdemeanor may be sentenced to a term in the city or county jail not to exceed six months.
- (b) A person who has been convicted of a class C misdemeanor may be sentenced to a term in the county of city jail not to exceed ninety days.
- (c) A person who has been convicted of an infraction may not be sentenced to a term in the county or city jail.

7-10-4. Liability of Employers and Agents to Penalty for Violation of

Ordinances.

When the provisions of an ordinance prohibit the commission or omission of an act, not only the person actually doing the prohibited thing or omitting the directed act, but also the employer and all other persons concerned or aiding or abetting therein, shall be guilty of the offense described and liable to the penalty prescribed for the offense.

7-10-5. Essentials of Crime.

In every crime or public offense, there must exist a union or joining joint operation of act and intent, or criminal negligence.

7-10-6. Continuing Offenses Deemed Daily Violations.

In all instances where the violation of these ordinances is a continuing violation, a separate offense shall be deemed committed upon each day during or on which the violation occurs or continues.

7-10-7. Classification of Offenses.

Absent the specific denomination of class B or C misdemeanor or infraction, any violation of these ordinances or any amendatory ordinances shall be deemed a class B misdemeanor.

Chapter 11 LITTER CONTROL

7-11-1. Definitions.

For purposes of this chapter, the following definitions shall apply:

- (a) Litter is any quantity of paper, metal, plastic, glass, miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage or junk which is not stored in a container.
- (b) Public property includes, but is not limited to the following exterior locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights- of-way, public parking lots, school grounds, municipal (county) housing project grounds, school grounds, municipal (county) vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal (county) waterways and bodies of water.
- (c) Private property includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.
- (d) Containers are locally-approved metal, heavy- duty or plastic receptacles used for the disposal and storage of solid waste.

7-11-2. Regulations.

- (a) Pedestrians and Motorists.
 - (1) It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property within the corporate limits of Sandy City except in containers or areas lawfully provided therefor.
 - (2) To facilitate proper disposal of litter by pedestrians and motorists, such publicly-patronized or used establishments and institutions as may be designated by the City shall provide, regularly empty and maintain in good condition adequate containers that meet standards prescribed by the City. This requirement shall be applicable, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile canteens, motels, hospitals, schools and colleges.
- (b) Vehicles Transporting Loose Materials.
 - (1) It shall be unlawful for any person, firm, corporation, institution or organization to transport any loose cargo by truck or other motor vehicle

within the corporate limits of Sandy City unless said cargo is covered and secured in a such a manner as to prevent depositing of litter on public and private property.

- (2) The duty and responsibility imposed by Section 7-11-2(b)(1) shall be applicable alike to the owner of the truck of other vehicle, the operator thereof, and the person, firm, corporation, institution or organization from whose residence or establishment the cargo originated.
- (3) In the prosecution charging a violation of Section 7-11-2(b)(1), lack of adequate covering and securing shall in itself constitute proof of a violation has been committed.

(c) Loading and Unloading Operations.

- (1) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers there for the disposal and storage of such litter and shall make appropriate arrangements for the collection thereof.
- (2) It shall be the duty of the owner or occupant to remove at the end of each working day any litter that has not been containerized at these locations.

(d) Construction/Demolition Projects.

- (1) It shall be unlawful for the owner, agent or contractor in charge of any construction or demolition site to cause, maintain, permit or allow to be caused, maintained or permitted the accumulation of any litter on the site before, during or after the completion of the construction or demolition project.
- (2) It shall be unlawful for the owner, agent or contractor on any construction or demolition site to allow litter to blow or otherwise, through natural acts, be removed from the construction or demolition site.
- (3) The owner, agent or contractor may be required at any time to show proof of appropriate collection, or if transported by himself, of final disposition at an authorized facility.

(e) Household Solid Waste Containerization and Removal.

- (1) All residences located in any area in which solid waste collection is made by the City or approved contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections. The type, size and number of containers, as prescribed by the City shall be made by resolution of the City Council.
- (2) All items too large to fit into containers, such as, but not limited to,

appliances, furniture and mattresses, shall be disposed of only in accordance with the policy prescribed by resolution of the City Council.

- (3) All loose materials which normally fit into containers but which are excess as a result of special circumstances such as holidays shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed beside the containers.
 - (4) Containers shall be kept covered at all times.
 - (5) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the City. Failure to do so within five (5) days of such notification shall constitute a violation of this section.
 - (6) In placing containers for collection and removing them after collection, all residents shall follow these practices prescribed by resolution of the City Council.
 - (7) It shall be unlawful for any resident to deposit household waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.
- (f) Commercial Solid Waste Containerization and Removal.
- (1) All establishments and institutions which generate solid waste for collection by the City or approved contractors shall abide the following container requirements prescribed by resolution of the City Council.

(Requirements re: types, sizes, numbers, locations, safety precautions, accessibility and collection frequency.)
 - (2) Containers shall be kept covered at all times.
 - (3) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the City. Failure to do so within five (5) days of such notification shall constitute a violation of this section.
 - (4) It shall be unlawful for any owner, manager or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal or litter by pedestrians.

(g) Provision for Solid Waste Disposal and Storage Facilities at New Buildings.

- (1) Before building permits shall be issued for construction of commercial buildings and multiple- dwelling units, plans for the adequacy, location and accessibility of solid waste containerization and storage facilities must be approved by the City.
- (2) No certificate of occupancy shall be issued for said premises until the City's approval of these facilities has been obtained.

(h) Keeping Property Clean.

- (1) It shall be the duty of the owner, agent, occupant or lessee to keep exterior private property free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other lodging points.
- (2) Owners, agents, occupants or lessees whose properties face on City sidewalks, strips between streets and sidewalks and alleys shall be responsible for keeping those sidewalks and strips free of litter.
- (3) It shall be unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.
- (4) It shall be the duty of every nonresident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter.
- (5) If, after due warning, citation or summons, an owner, agent or occupant or lessee fails to remove litter from any private property, the City may serve written notice to the owner or his appointed agent that if the condition is not corrected within ten (10) days, the property will be cleaned by the City and the owner or his appointed agent billed for the cost thereof. If the bill is not paid within thirty (30) days, execution may be issued by the City against the property for the amount of the cleaning charge, and such execution shall constitute a lien on the property until the claim has been satisfied.

7-11-3. Separate Violations.

Each and every day during which a violation continues shall be considered a separate and distinct offense.

7-11-4. Penalty.

A violation of this chapter shall be deemed an infraction.

Chapter 12 CITY PARKS

7-12-1. Definitions.

As used in this chapter:

(a) "Recreation center" means those buildings and surrounding areas owned by Sandy City (the City) where recreation activities, day care, health services and other beneficial services and activities are provided by the City, that are designated by the City Council as recreation centers or senior citizen centers.

(b) "Park" means a specific piece of ground, either within the City or that is under the control of the City, that is operated and maintained by the City and set apart for the use of the general public, whether developed or undeveloped, including natural parks, and that is usually, or may be, planted with trees, lawns and other shrubbery. A park may include within its boundary facilities for sport, entertainment, dancing, recreation, swimming, or a park may be planned for any beneficial used by the citizenry. A park may have numerous facilities or consist of only a single facility.

(c) "Recreation" means a leisure activity or diversion which restores one's strength, spirit or vitality and which refreshes the mind and/or body.

(d) "Recreation facilities" (facilities) means parks, recreation areas and recreation centers which are owned or operated by the City, or for which the City has enforcement and/or maintenance responsibilities.

7-12-2. Authority to Make Rules.

The Director of Parks and Recreation Department (the Director) of the City may adopt or recommend the adopting of rules for the use and care of City recreational facilities consistent with this chapter and other City ordinances, as provided by the City's ordinances on rulemaking. The Director may coordinate rulemaking and enforcement with the Sandy Police Department which has enforcement authority in all City recreational facilities.

7-12-3. Prohibited Activities.

The following activities are prohibited in or on City recreational facilities:

- (a) Entering into a flood detention pond where there is water present in it;
- (b) Expecterating, urinating or littering in violation of 7-1-11, R.O.S.C., or defecating except into a toilet for that purpose;
- (c) Bringing into a City recreational facility an animal other than a dog, cat, horse, donkey, burro, mule or llama unless a special permit has been obtained from Salt Lake County

("County");

(d) Allowing any dog or cat to be off of a leash, or allowing such animal not to be secured to a person;

(e) Allowing a donkey, horse, burro, mule or llama to be in a facility when not being led by a halter or ridden;

(f) Allowing an animal, other than a horse, donkey, burro, mule or llama, under one's ownership, care, custody or control to defecate in a recreational facility without removing the defecation to a proper trash receptacle as provided in Section 3-1-16, R.O.S.C.;

(g) Possessing or drinking any alcoholic beverage;

(h) Hitting or throwing balls or other hard objects against fences, or against baseball, soccer or other backstops;

(i) Shooting any projectile, paint ball or golfing;

(j) Adjusting or tampering with sprinklers, sprinkling valves, or sprinkling or irrigation systems;

(k) Making excessive, unnecessary or unusually loud noises in violation of Title 7, Chapter 2, R.O.S.C.;

(l) Making or continuing to burn an open fire except in barbecue or grill areas provided by the City or County;

(m) Skiing, snowboarding, sledding, tobogganning or riding inner tubes or similar means of descending a hill on snow or ice in areas where such uses are prohibited by posted signs;

(n) Putting any object which is not normally used in those receptacles in sinks, toilets or drinking fountains which is reasonably likely to clog or plug the plumbing;

(o) Parking a motor vehicle or trailer overnight in a facility unless in an area where specifically allowed by posted signs;

(p) Riding bicycles or using skateboards, rollerblades, rollerskates or the like on any surface other than a sidewalk, parking lot or designated trail, or using any of these in a careless or reckless manner;

(q) Operating a snowmobile;

(r) Using any trail, path, walk, road, lot or area for any purpose other than that which is designated by signs or by City or County personnel;

(s) Creating or constructing any path without the express written consent of the Director or County;

(t) Tying or tethering any animal to a tree, plant or structure which is not specifically

designated for that purpose;

(u) Annoying, injuring, releasing from confinement or interfering with any animal;

(v) Hunting or fishing unless there is a special facility set aside for such purpose by the City;

(w) Swimming, bathing or wading in any lake, pond, fountain or stream not specifically set aside by the City for that purpose (except that persons wearing fishing waders may wade where fishing is allowed);

(x) Operating any dispensary or concession stand without the express written consent of the Director or without first obtaining a current, valid business license from the City;

(y) Distributing any handbills or circulars, or posting, placing or erecting any bills, notices, papers or advertising of any kind without the express written consent of the Director or County;

(z) Engaging in any activity in an area which is not specifically designated for that activity;

(aa) Camping, lodging or remaining overnight unless in an area specifically designated for that purpose;

(bb) Throwing or depositing any bottle, metal objects, glass, paper, wood, clippings, rubbish or garbage except in receptacles set out for that purpose;

(cc) Carrying or discharging any firearm or explosive of any kind, including fireworks, excepting law enforcement officers and those who have received written consent to do so from the Director;

(dd) Violating any provision or instruction on any sign, or violating any rule of the facility;

(ee) Conducting or carrying on any parade, formal celebration, service or speech-making without express written permission from the Director, the City Council or the County;

(ff) Removing any plant, shrub, natural plant, rock, etc., from the recreational facility, excepting parks and recreation personnel in furtherance of their duties;

(gg) Entering any area designated by signs as a rehabilitation or restoration area, excepting parks and recreation personnel in furtherance of their duties.

7-12-4. Opening and Closing Times for City Recreational Facilities.

(a) Except for unusual or unforeseen events, City recreational facilities shall be open to the public every day of the year during designated hours. Unless otherwise noticed by sign or other communication, facilities shall open each day at 6:00 a.m. Facilities without lighted playing fields shall be closed at 10:00 p.m. and those with lighted playing fields shall be closed at 10:30 p.m. Closing hours for facilities shall be posted in each for public information and

those posted hours shall be the actual closing time for that facility. With the exception of police, fire, and parks and recreation personnel, no one may enter a recreational facility during the hours it is closed.

(b) Individuals or groups may receive express written permission from the Director, the Director's assistant or the County to be in a facility during the hours it is closed. The written permission shall designate specific hours within which the exemption is granted. The exemption from closing hours shall be in effect only for those hours exempted. Such written permission must be presented to any police officer or City official or employee upon demand. Written exemption from closing hour prohibitions shall not void any other penalties or violations of this chapter or other Sandy City ordinances.

7-12-5. Motor Vehicle Restrictions.

(a) Speeding. It is unlawful to operate or drive a motor vehicle within any recreational facility at a speed in excess of that posted on the particular road, trail or pathway in the facility. If no speed is posted, then no motor vehicle shall be operated at a speed in excess of 7 miles per hour. Nothing in this subsection shall be construed to allow operation of a motor vehicle outside of parking lots and roads unless otherwise permitted by a sign posted by the City.

(b) Careless, Reckless or Hazardous Operation. No motor vehicle, even operated within the permissible speed limit or within area designated for such vehicle's use, shall be operated in a careless or reckless manner, or in a manner which causes significant hazard to life, safety or property.

(c) Drive Only Where Allowed. No motor vehicle, as defined in Section 7-2-3(k), may be driven within a facility other than those in areas specifically designated and posted by the City for that particular purpose. This shall not apply, however, to motorized or self-propelled equipment used by on-duty City or County employees or emergency personnel for transportation, maintenance or service of facilities, or in performance of their duties.

(d) Definition of Motor Vehicle. This is any vehicle within the definition of "motor vehicle" contained in 41-6-1(20) U.C.A.

7-12-6. Noise Restrictions.

No person may play or cause to be played amplified music or sound in a facility without the express written approval of the Director and without obtaining a license for such purpose. Such permission or license may be denied by the Director or the City where it is reasonably believed that such noise would disturb other patrons of the facility, annoy residents neighboring the facility or disturb wildlife. The written permission and license to play amplified sound must be provided to any City employee or official upon demand during the time for which it is granted. Issuance of permission and a license does not exempt the holder or permittee from all other rules, regulations, ordinances or statutes whether State, County or City.

7-12-7. Violation of Ordinance or Rule.

(a) Eviction. Any person violating any of the ordinances, rules or instructions established

by the City or the Director may be evicted immediately from the facility by any City employee who has been granted that authority by the Director. Any person who, having been given direction to leave by such an employee and who does not leave, is guilty of violating this chapter.

(b) Penalty. Any person who violates any ordinance, rule, instruction or sign within this chapter is guilty of an infraction unless the violation is a greater offense under State, County or City criminal codes, in which case the violation shall be punishable as the greater offense.

Endnotes

1 (Popup - Popup)

Court upheld curfew prohibiting persons under age 17 from being in any public place between midnight and 5:00 a.m., with certain exceptions re: errands for parents, working, or exercising First Amendment rights. Schleifer v. Charlottesville, 67 U.S.L.W. 1252 (CA 4 1998). Court of Appeals for D.C. court split with Fifth Circuit Court of Appeals; struck down curfew barring unmarried, unemancipated persons under age 17 from being in a public place or at any establishment in the city without adult supervision between 11:00 p.m. and 6:00 a.m. Law was subject to certain exemptions for travel and supervision by parents. Hutchins v. District of Columbia, 66 U.S.L.W. 1732 (CA DC 1998); cf. Qutb v. Strauss, 11 F.3d 488 (CA 5 1993).

2 (Popup - Popup)

S.L.C. v. Alires, 401 Utah Adv. Rep. 12, Telephone harassment, excited utterance, admitted as evidence did not violate def. right to confront witnesses.

3 (Popup - Popup)

State Constitution does not prohibit warrantless search and seizure of garbage left for streetside collection. Conviction affirmed, cert. denied, State v. Jackson, 945 P.2d 1118 (Utah 1997). Felony drug convictions reversed, "where conviction rests on circumstantial alone, the evidence must be sufficient to justify exclusion of any reasonable inference of a defendant's innocence." State v. Layman, 953 P.2d 782 (Utah App.), cert. granted (Utah 1998), affirmed 199 UT 79. Def. knew of existence of paraphernalia in home and potential for illegal use, but this fell short of possession since there was no intent to use the items. Spanish Fork City v. Bryan, 1999 UT 61. Meth and paraphernalia were found at same time and same location; crimes closely related in time, but were separate statutory offenses not related to single criminal objective. State v. Keppler, 1999 UT App. 89.

4 (Popup - Popup)

Qualifications for party "aggrieved" and scope of review discussed in S&G, Inc. v. Morgan, 797 P.2d 1086 (Utah 1990).

5 (Popup - Popup)

Possession of drug paraphernalia conviction reversed - State failed to show "possession" merely by showing items found in defendant's home. Spanish Fork City v. Bryan, 364 Utah Adv. Rep. 16 (CA, 3/4/99)